

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. FL-03815-A
JAY PEAK, INC.)

WITNESS: William Stenger

PAGES: 1 through 273

PLACE: Securities and Exchange Commission
801 Brickell Avenue, Suite 1800
Miami, Florida 33131

DATE: Wednesday, May 21, 2014

The above-entitled matter came on for hearing,
pursuant to notice, at 10:30 a.m.



Diversified Reporting Services, Inc.

(202) 467-9200

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the Securities and Exchange Commission:</p> <p>4 TRISHA FUCHS-SINDLER, ESQ.</p> <p>5 BRIAN JAMES, ESQ.</p> <p>6 MICHELLE LAMA, ACCOUNTANT</p> <p>7 Division of Enforcement</p> <p>8 Securities and Exchange Commission</p> <p>9 801 Brickell Avenue</p> <p>10 Suite 1800</p> <p>11 Miami, Florida 33131</p> <p>12 (305) 982-6300</p> <p>13</p> <p>14</p> <p>15 On behalf of the Witness:</p> <p>16 DAVID B. GORDON, ESQ.</p> <p>17 Richardson Patel, LLP</p> <p>18 405 Lexington Avenue</p> <p>19 49th Floor</p> <p>20 New York, New York 10174</p> <p>21 (646) 755-7315</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 PROCEEDINGS</p> <p>2 MS. FUCHS-SINDLER: We are on the record</p> <p>3 at 10:30 a.m. on May 21st, 2014. We are here to</p> <p>4 take the testimony of William Stenger at the SEC</p> <p>5 Offices of Miami, Florida.</p> <p>6 Mr. Stenger, please raise your right</p> <p>7 hand.</p> <p>8 Do you swear to tell the truth, the</p> <p>9 whole truth, and nothing but the truth?</p> <p>10 MR. STENGER: I do.</p> <p>11 Whereupon,</p> <p>12 WILLIAM STENGER</p> <p>13 was called as a witness and, having been first</p> <p>14 duly sworn, was examined and testified as follows:</p> <p>15 MS. FUCHS-SINDLER: Please state and</p> <p>16 spell your full name for the record.</p> <p>17 THE WITNESS: William Joseph Stenger,</p> <p>18 S-T-E-N-G-E-R.</p> <p>19 MS. FUCHS-SINDLER: Have you ever been</p> <p>20 known by any other name?</p> <p>21 THE WITNESS: No. Well, my nickname is</p> <p>22 Bill.</p> <p>23 MS. FUCHS-SINDLER: Okay.</p> <p>24 My name is Trisha Sindler. I'm a Senior</p> <p>25 Counsel with the Division of Enforcement of the</p>																																														
<p style="text-align: right;">Page 3</p> <p>1 CONTENTS</p> <p>2</p> <table border="0"> <tr> <td>3 WITNESS:</td> <td>EXAMINATION</td> </tr> <tr> <td>4 William Stenger</td> <td>12</td> </tr> <tr> <td>5</td> <td></td> </tr> <tr> <td>6 EXHIBITS: DESCRIPTION</td> <td>IDENTIFIED</td> </tr> <tr> <td>7 92 Subpoena</td> <td>11</td> </tr> <tr> <td>8 93 Background Questionnaire</td> <td>14</td> </tr> <tr> <td>9 94 Letter, dated 6/18/08</td> <td>67</td> </tr> <tr> <td>10 95 Email, dated 1/27/09</td> <td>96</td> </tr> <tr> <td>11 96 Letter, dated 7/1/08</td> <td>131</td> </tr> <tr> <td>12 97 Letter, dated 11/16/11</td> <td>138</td> </tr> <tr> <td>13 98 Photos</td> <td>151</td> </tr> <tr> <td>14 99 Purchase & Sale Agreement,</td> <td></td> </tr> <tr> <td>15 dated 7/21/11</td> <td>170</td> </tr> <tr> <td>16 100 Purchase & Sale Agreement</td> <td>170</td> </tr> <tr> <td>17 101 Power of Attorney</td> <td>176</td> </tr> <tr> <td>18 102 Emails, dated 6/2/10</td> <td>183</td> </tr> <tr> <td>19 103 Emails, dated 5/28 - 5/29</td> <td>198</td> </tr> <tr> <td>20 104 Offering Materials</td> <td>201</td> </tr> <tr> <td>21 105 AnC Bio Vermont</td> <td>226</td> </tr> <tr> <td>22</td> <td></td> </tr> <tr> <td>23</td> <td></td> </tr> <tr> <td>24</td> <td></td> </tr> <tr> <td>25</td> <td></td> </tr> </table>	3 WITNESS:	EXAMINATION	4 William Stenger	12	5		6 EXHIBITS: DESCRIPTION	IDENTIFIED	7 92 Subpoena	11	8 93 Background Questionnaire	14	9 94 Letter, dated 6/18/08	67	10 95 Email, dated 1/27/09	96	11 96 Letter, dated 7/1/08	131	12 97 Letter, dated 11/16/11	138	13 98 Photos	151	14 99 Purchase & Sale Agreement,		15 dated 7/21/11	170	16 100 Purchase & Sale Agreement	170	17 101 Power of Attorney	176	18 102 Emails, dated 6/2/10	183	19 103 Emails, dated 5/28 - 5/29	198	20 104 Offering Materials	201	21 105 AnC Bio Vermont	226	22		23		24		25		<p style="text-align: right;">Page 5</p> <p>1 United States Securities and Exchange Commission.</p> <p>2 With me are Brian James, also Senior Counsel, and</p> <p>3 Michelle Lama, Accountant. We may be joined later</p> <p>4 by phone after lunch by Christopher Martin, who's</p> <p>5 Senior Litigation Counsel. We are --</p> <p>6 THE WITNESS: What's his name again, the</p> <p>7 gentleman who may join us?</p> <p>8 MS. FUCHS-SINDLER: Mr. Martin,</p> <p>9 Christopher Martin.</p> <p>10 THE WITNESS: Chris Martin. Okay.</p> <p>11 MS. FUCHS-SINDLER: He may join us after</p> <p>12 lunch by phone.</p> <p>13 THE WITNESS: All right. Thank you.</p> <p>14 MS. FUCHS-SINDLER: We are Officers of</p> <p>15 the Commission for the purposes of this</p> <p>16 proceeding.</p> <p>17 This is an investigation by the</p> <p>18 Commission in the matter of Jay Peak, Inc., file</p> <p>19 number FL-3815, to determine whether there have</p> <p>20 been violations of certain provisions of the</p> <p>21 federal securities laws; however, the facts</p> <p>22 developed in this investigation might constitute</p> <p>23 violations of other federal or state, civil or</p> <p>24 criminal laws.</p> <p>25 Let me briefly explain the procedure we</p>
3 WITNESS:	EXAMINATION																																														
4 William Stenger	12																																														
5																																															
6 EXHIBITS: DESCRIPTION	IDENTIFIED																																														
7 92 Subpoena	11																																														
8 93 Background Questionnaire	14																																														
9 94 Letter, dated 6/18/08	67																																														
10 95 Email, dated 1/27/09	96																																														
11 96 Letter, dated 7/1/08	131																																														
12 97 Letter, dated 11/16/11	138																																														
13 98 Photos	151																																														
14 99 Purchase & Sale Agreement,																																															
15 dated 7/21/11	170																																														
16 100 Purchase & Sale Agreement	170																																														
17 101 Power of Attorney	176																																														
18 102 Emails, dated 6/2/10	183																																														
19 103 Emails, dated 5/28 - 5/29	198																																														
20 104 Offering Materials	201																																														
21 105 AnC Bio Vermont	226																																														
22																																															
23																																															
24																																															
25																																															

<p style="text-align: right;">Page 6</p> <p>1 will follow today. We'll be asking you a series 2 of questions. At any time, if you want to take a 3 short break, feel free to tell us. We'll be happy 4 to accommodate you. All we ask is that if there's 5 a question pending, that you answer the question 6 before we go on a break. 7 THE WITNESS: Uh-huh. 8 MS. FUCHS-SINDLER: During the course of 9 your testimony today, I'm going to ask you 10 questions about things that happened or may have 11 happened in the past. Obviously, time has gone by 12 since those events and you're likely to have a 13 better and more complete memory of some events 14 than others. 15 In answering a question about these 16 events, however, you should tell me about all your 17 memories or recollections that are responsive to 18 the question, not just those that are specific or 19 perfectly clear or those of which you're a hundred 20 percent sure. 21 I'm asking you also for vague memories, 22 general memories, cloudy memories, and/or memories 23 of which you are less than a hundred percent 24 certain. In other words, I'm asking you for any 25 responsive recollection whatsoever you may have</p>	<p style="text-align: right;">Page 8</p> <p>1 recollections. 2 Do you understand that? 3 THE WITNESS: I do. 4 MS. FUCHS-SINDLER: The court reporter 5 transcribes these proceedings and will create a 6 transcript of your testimony at the end. Please 7 make sure to answer verbally because the court 8 reporter cannot pick up any nodding or any other 9 gestures. 10 Do you understand? 11 THE WITNESS: I do. 12 MS. FUCHS-SINDLER: Also, sometimes when 13 people are testifying, they anticipate the 14 question, but for the sake of the transcript -- 15 THE WITNESS: I understand -- 16 MS. FUCHS-SINDLER: Right -- if you 17 could please let me finish the question and then 18 answer, and that will help create a clear 19 transcript. 20 THE WITNESS: I understand. 21 MS. FUCHS-SINDLER: Okay. Thank you. 22 Also, if we have a conversation about 23 the case when we're off the record, we have to 24 summarize that conversation when we return on the 25 record.</p>
<p style="text-align: right;">Page 7</p> <p>1 however incomplete or uncertain or vague or 2 nonspecific it may be. We can then sort out which 3 memories are clear and certain and which are less 4 clear and less certain. 5 Do you understand this? 6 THE WITNESS: I do. 7 MS. FUCHS-SINDLER: Okay. 8 And do you agree to answer my questions 9 with this understanding in mind? 10 THE WITNESS: The -- to the fullest of 11 my ability, yeah. 12 MS. FUCHS-SINDLER: Therefore, if you 13 answer, I don't recall or I don't remember or I 14 forgot, I will assume that you have no memory or 15 recollection whatsoever that is responsive to the 16 question asked, not even fuzzy or less than 17 crystal clear memories. 18 Do you understand that? 19 THE WITNESS: I do. 20 MS. FUCHS-SINDLER: It may be that 21 reviewing certain documents refreshes your 22 recollection as to the events you are questioned 23 about. In such a case, I'm asking for your 24 testimony on everything that is responsive to the 25 question, not just clear or specific</p>	<p style="text-align: right;">Page 9</p> <p>1 Do you understand? 2 THE WITNESS: No. When you say off the 3 record? 4 MS. FUCHS-SINDLER: That means let's say 5 we -- 6 THE WITNESS: I understand what that 7 means, but does that mean that she is no longer 8 transcribing what happens? 9 MS. FUCHS-SINDLER: Exactly. 10 THE WITNESS: Okay. 11 MS. FUCHS-SINDLER: So if we go and we 12 take a break -- 13 THE WITNESS: Yes. 14 MS. FUCHS-SINDLER: -- and while 15 we're on the break we have a substantive 16 conversation -- 17 THE WITNESS: I see. 18 MS. FUCHS-SINDLER: -- we summarize. 19 THE WITNESS: Okay. 20 MS. FUCHS-SINDLER: And if we didn't, we 21 just confirm that there were no substantive 22 conversations. 23 THE WITNESS: I understand. I 24 understand. 25 MS. FUCHS-SINDLER: And if you could</p>

<p style="text-align: right;">Page 10</p> <p>1 just wait until I finish --</p> <p>2 THE WITNESS: Till you're done. I'm</p> <p>3 sorry.</p> <p>4 MS. FUCHS-SINDLER: Exactly.</p> <p>5 THE WITNESS: I'll get it.</p> <p>6 MS. FUCHS-SINDLER: You're anticipating</p> <p>7 everything, so -- all right.</p> <p>8 Are you under any medication that would</p> <p>9 affect your ability to testify today?</p> <p>10 THE WITNESS: No.</p> <p>11 MS. FUCHS-SINDLER: Or that would affect</p> <p>12 your memory today?</p> <p>13 THE WITNESS: No.</p> <p>14 MS. FUCHS-SINDLER: Okay.</p> <p>15 Prior to the opening of the record, you</p> <p>16 were provided with a copy of the Formal Order of</p> <p>17 Investigation in this matter. It will be</p> <p>18 available to you for your examination during the</p> <p>19 course of this proceeding.</p> <p>20 Mr. Stenger, have you had an opportunity</p> <p>21 to review the Formal Order?</p> <p>22 THE WITNESS: I have.</p> <p>23 MS. FUCHS-SINDLER: Prior to the opening</p> <p>24 of the record, you were provided with a copy of</p> <p>25 the Commission's Supplemental Information Form</p>	<p style="text-align: right;">Page 12</p> <p>1 EXAMINATION</p> <p>2 BY MS. FUCHS-SINDLER:</p> <p>3 Q The court reporter has marked a copy of</p> <p>4 your subpoena as Exhibit No. 92, and that is in</p> <p>5 front of you. It's a document dated March 19th,</p> <p>6 2014.</p> <p>7 Have you seen this document before?</p> <p>8 A I have.</p> <p>9 Q And is this a copy of the subpoena</p> <p>10 pursuant to which you're appearing today?</p> <p>11 A I believe it is.</p> <p>12 Q Okay.</p> <p>13 The subpoena calls for the production of</p> <p>14 certain documents. Have you produced any</p> <p>15 documents called for by the subpoena?</p> <p>16 A I believe I provided all the documents</p> <p>17 that were asked for in the subpoena.</p> <p>18 Q Please describe the search that was</p> <p>19 conducted for the requested documents and state</p> <p>20 who conducted that search.</p> <p>21 A I reached out to Mr. Gordon and --</p> <p>22 MR. GORDON: You don't want to reveal</p> <p>23 your communications with me, but --</p> <p>24 THE WITNESS: Well, I read the subpoena,</p> <p>25 and I -- knowing that there were documents and</p>
<p style="text-align: right;">Page 11</p> <p>1 1662. A copy of that notice was previously marked</p> <p>2 as Exhibit No. 1.</p> <p>3 Have you had an opportunity to read</p> <p>4 Exhibit No. 1?</p> <p>5 THE WITNESS: I have.</p> <p>6 MS. FUCHS-SINDLER: Do you have any</p> <p>7 questions concerning that exhibit?</p> <p>8 THE WITNESS: I do not.</p> <p>9 MS. FUCHS-SINDLER: Are you represented</p> <p>10 by counsel?</p> <p>11 THE WITNESS: Yes.</p> <p>12 MS. FUCHS-SINDLER: Would Counsel please</p> <p>13 identify himself for the record by stating your</p> <p>14 name, the name of your firm, your business address</p> <p>15 and telephone number.</p> <p>16 MR. GORDON: David Gordon, Richardson</p> <p>17 and Patel, 405 Lexington Avenue, 49th floor, New</p> <p>18 York, New York, 10174. Phone number, (646)</p> <p>19 755-7315.</p> <p>20 MS. FUCHS-SINDLER: Mr. Gordon, are you</p> <p>21 representing Mr. Stenger as his Counsel today?</p> <p>22 MR. GORDON: Yes.</p> <p>23 MS. FUCHS-SINDLER: Okay.</p> <p>24 (SEC Exhibit No. 92 was marked</p> <p>25 for identification.)</p>	<p style="text-align: right;">Page 13</p> <p>1 emails and communication that you requested, we</p> <p>2 facilitated the response and -- and produced the</p> <p>3 items that were requested. And I believe that was</p> <p>4 done, and it was done in accordance with our</p> <p>5 efforts to supply the Commission what it was</p> <p>6 requesting from our organization.</p> <p>7 And as President of that company, those</p> <p>8 documents were part of that grouping of</p> <p>9 submissions. And all of, I believe, my emails and</p> <p>10 such were provided.</p> <p>11 BY MS. FUCHS-SINDLER:</p> <p>12 Q And who assisted you in gathering the</p> <p>13 documents to produce pursuant to the subpoena?</p> <p>14 A Our Accounting Department. I believe</p> <p>15 the -- our legal advisors. Between the Accounting</p> <p>16 Department, the legal advisors, and our IT</p> <p>17 Department, the scope of things that were</p> <p>18 requested I believe were provided in full.</p> <p>19 Q Did you check any personal computers</p> <p>20 that you have?</p> <p>21 A I don't have a personal -- I have an</p> <p>22 iPad. That's all I have. I don't have a personal</p> <p>23 computer. All of my emails and communications</p> <p>24 were in the principal company computer that is in</p> <p>25 my office, and that's it.</p>

Page 14

1 Q Have you withheld any documents we
2 requested based on any claim of privilege?
3 A None.
4 Q Were there any documents not produced
5 for any reason, other than privilege?
6 A None.
7 Q Do you know of any documents that were
8 not provided, but that were in your possession at
9 a prior time or that were lost, destroyed, or
10 otherwise disposed of?
11 A I do not.
12 Q Okay.
13 (SEC Exhibit No. 93 was marked
14 for identification.)
15 BY MS. FUCHS-SINDLER:
16 Q You have in front of you what was
17 previously -- what was marked before you came in
18 as Exhibit No. 93 a copy of the background
19 questionnaire that you've provided to us. We've
20 marked that as Exhibit 93 again. And we
21 appreciate you providing that to us.
22 Do you recognize this document?
23 A I do.
24 Q What is it?
25 A It is a questionnaire about my

Page 15

1 background, my family, my involvement in history
2 of education, and it's a short history of
3 employment.
4 Q Is this your handwriting?
5 A It is.
6 Q And is all the information contained in
7 here accurate?
8 A Yes, it is.
9 Q Is there any information that you did
10 not include that you now want to add?
11 A None.
12 Q If you could just turn to number ten on
13 the second page when it asks about whether you've
14 been deposed before, and you state that -- you
15 mentioned ski injury cases over the past forty
16 years.
17 A Uh-huh.
18 Q Those are the cases in which you've been
19 deposed?
20 A Well, over that forty-year period there
21 have probably been three or four cases where I was
22 deposed in an insurance claim-related ski injury.
23 It's quite typical in our industry, that we have
24 four hundred thousand visits a year and a handful
25 of injuries, that one or two might wind up being

Page 16

1 litigated, and as President of the company, you
2 may or may not be asked to testify.
3 Q Okay.
4 Besides those three or four ski injury
5 cases, are there any other matters in which you've
6 been deposed?
7 A No.
8 Q Okay.
9 And if you could go to number nineteen,
10 which I believe is the second to the last page,
11 where it asks if you have now or ever been an
12 officer or director of any publicly-held company.
13 Could you elaborate on that?
14 A Yes. I was a member of the Board of
15 Directors of the Central Vermont Public Service
16 Corporation from, approximately, 2007 to 2013. The
17 company was sold in 2013 to Green Mountain Power,
18 a utility company headquartered in Colchester,
19 Vermont.
20 And at the time of that sale, the Board
21 of Directors of Central Vermont Public Service was
22 dissolved, and my service to that company ended,
23 as did the other directors that were on that
24 Board.
25 Q Okay.

Page 17

1 Have you now or ever been an officer or
2 director of any privately-held company?
3 A I was an officer of my first employer in
4 the ski industry in Pennsylvania, Jack Frost
5 Mountain Resort. I was the President of that
6 resort.
7 I was President of Jay Peak Resort
8 through my tenure there and up until 2008 when the
9 company was sold, and I retained that position
10 because I remained with the company after that
11 date.
12 Other --
13 Q Can I go back?
14 A I'm sorry.
15 Q So you were the President of Jay Peak
16 Resort from what period to when?
17 A I joined Jay Peak Resort in 1984 as
18 Executive Vice-President, and I think it was a
19 year later that the partners appointed me as
20 President. And I remained in that role until the
21 company was sold in 2008. And then the new
22 corporation, I remained as President and CEO.
23 Q And what is the name of that new
24 corporation?
25 A Well, it's owned -- Jay Peak Resort is

<p style="text-align: right;">Page 18</p> <p>1 owned by an organization called Q Resorts.</p> <p>2 Q So your current title with Jay Peak</p> <p>3 Resort is --</p> <p>4 A President and CEO.</p> <p>5 Q Any other private companies of which</p> <p>6 you're an officer or director?</p> <p>7 A I don't -- no. The answer's no. I'm a</p> <p>8 director and participant in a number of non-profit</p> <p>9 volunteer organizations, but privately held, no.</p> <p>10 That would be it.</p> <p>11 Q As President and CEO of Jay Peak, what</p> <p>12 does your role consist of?</p> <p>13 A I am involved in the day-to-day</p> <p>14 operations of the resort. I'm involved in the</p> <p>15 developmental planning, operational planning,</p> <p>16 responsible for a staff of fifteen hundred in the</p> <p>17 winter time.</p> <p>18 The scope of the resort is skiing, golf,</p> <p>19 conference business, wedding coordination, a</p> <p>20 variety of other recreational activities. We</p> <p>21 welcome about a million visitors a year. And my</p> <p>22 job is to make sure the resort runs correctly,</p> <p>23 efficiently, profitably.</p> <p>24 And I manage on a day-to-day basis about</p> <p>25 thirty-five managers and supervisors, who, in</p>	<p style="text-align: right;">Page 20</p> <p>1 minutes.</p> <p>2 I'll then go to the next department that</p> <p>3 is important to that day's operations, which would</p> <p>4 be our Lift Operations and Maintenance Department,</p> <p>5 to determine if there are any conditions that</p> <p>6 would prevent us from running all of our lifts,</p> <p>7 when weather conditions may or may not play a role</p> <p>8 in that.</p> <p>9 Once I know what the snow making and</p> <p>10 grooming outcomes are in the lift operations --</p> <p>11 conditions are, I'll communicate with my Marketing</p> <p>12 Department and verify what our message to the</p> <p>13 public will be that morning. That all happens</p> <p>14 before 7:00 a.m.</p> <p>15 I then will proceed to the first of</p> <p>16 three hotels that we operate and two cafeterias to</p> <p>17 make sure that the facilities are clean and neat,</p> <p>18 ready to be opened, that the staff is in place to</p> <p>19 welcome people, that the Food Service Departments</p> <p>20 in each location are prepared for the breakfast</p> <p>21 offerings that we give to the day skier, as well</p> <p>22 as our destination skier. That takes me about --</p> <p>23 about forty-five minutes to complete.</p> <p>24 In the meantime, I have an opportunity</p> <p>25 to welcome the staff, interact with them, perhaps,</p>
<p style="text-align: right;">Page 19</p> <p>1 turn, deal with a great staff of up to fifteen</p> <p>2 hundred in the winter and about five hundred in</p> <p>3 the summer.</p> <p>4 I'm involved in every aspect of the</p> <p>5 organization, government relations, community</p> <p>6 relations. I'm a hands-on General Manager who has</p> <p>7 also the title of President and CEO, but I'm a</p> <p>8 hands-on GM.</p> <p>9 Q Hands-on GM, General Manager?</p> <p>10 A General Manager.</p> <p>11 Q Let me just explore. When you say the</p> <p>12 day-to-day operations, if you can give me a flavor</p> <p>13 for what you're talking about.</p> <p>14 A Would you like me to take you through an</p> <p>15 average day in winter time?</p> <p>16 Q Yeah, if you want.</p> <p>17 A I'll arrive at the ski area at about</p> <p>18 6:30 in the morning. I'll drive to the operations</p> <p>19 garage area where I'll meet the groomers who just</p> <p>20 finished the midnight to six grooming shift. We'll</p> <p>21 review grooming performance, trail conditions.</p> <p>22 We'll take note of what snow making may have taken</p> <p>23 place overnight and what kind of condition the</p> <p>24 trails will be in for our guests that day. That</p> <p>25 generally takes about a half hour, forty-five</p>	<p style="text-align: right;">Page 21</p> <p>1 thank them for what they're doing, and, in</p> <p>2 general, do what a good manager does, which is</p> <p>3 motivate and -- and appreciate the people that</p> <p>4 work for you.</p> <p>5 Then I will go to my office. I'll</p> <p>6 usually get there about 8:00. I'll touch base</p> <p>7 with my Marketing VP on any things that he might</p> <p>8 have on his agenda. And then I'll sit down at my</p> <p>9 computer, and I'll track emails that might've come</p> <p>10 in overnight, answer those that I can, get a sense</p> <p>11 of what issues I might need to deal with from</p> <p>12 them, if any.</p> <p>13 Then our operation -- our operation</p> <p>14 starts at 8:30, the actual welcoming of guests and</p> <p>15 the actual running of the resort from a skiing</p> <p>16 standpoint. At that time, our guests are starting</p> <p>17 to arrive. I'll take time to make sure that our</p> <p>18 arrival procedures, parking attendants, plowing,</p> <p>19 driveways and parking lots are clear and in the</p> <p>20 kind of order that a guest would expect.</p> <p>21 I'll then generally proceed to meet with</p> <p>22 the hotel General Manager around 9:00 to see if</p> <p>23 there were any issues overnight in his world,</p> <p>24 because we have three thousand beds and we have</p> <p>25 over four hundred dwelling units, and were there</p>

<p style="text-align: right;">Page 22</p> <p>1 any issues that he is aware of that would need my 2 interaction with him to solve.</p> <p>3 By about 10:00, the water park, which is 4 a big part of our year-round operation, is about 5 to open. Sometimes I try to be there at 9:30 when 6 they have their team meeting where they have 7 thirty employees, that every morning at 9:30 they 8 have a team meeting to prepare for the opening of 9 their facility. I try to be there on occasion to 10 see if they have any questions, again, thank them 11 for what they're doing, and be aware of if there 12 are any issues the manager of that facility has 13 that needs my interaction.</p> <p>14 Once that's done, we're into the 15 operation of the day, and then I will probably go 16 back to my office. I might be involved in various 17 meetings with various staff. I have 18 administrative duties. I might be signing checks. 19 I might be meeting my HR Director on an issue. 20 When you have fifteen hundred employees, you have 21 HR issues almost on a daily basis. Something 22 happens, and they will need to either let me know 23 about those things or just maybe there's a 24 question that only I can answer.</p> <p>25 And then we get into the middle of the</p>	<p style="text-align: right;">Page 24</p> <p>1 And when you had mentioned you're 2 involved with developmental planning and 3 operational planning, what were you referring to?</p> <p>4 A Well, I refer to developmental planning 5 as the physical creation and development of the 6 physical property of Jay Peak. In -- probably 7 1992, after a number of years of planning and -- 8 and collaboration with my staff and my community, 9 we got a master plan developed and approved by our 10 community and our -- what we call our Act 250 11 Commission, which is an environmental review 12 procedure in Vermont.</p> <p>13 And that master plan, developed in the 14 nineties, was sort of the blueprint for what would 15 Jay Peak become going forward. And so from a 16 developmental standpoint, ever since the late 17 eighties and throughout the nineties and the early 18 2000 to 2006, we were involved in elements of the 19 construction, expansion, and creation of that 20 master plan. It continued from -- passed 2006 and 21 continues to this day. We are still developing 22 the resort, but I will say right now we're 23 probably at about eighty-five percent complete. So 24 a few more things of relevance to do, but -- so 25 that's the developmental thing.</p>
<p style="text-align: right;">Page 23</p> <p>1 day where our Food and Beverage Department ramps 2 up, because the skiers are there in the morning. 3 Come noontime, they're in the inside. Afternoon, 4 they're outside. About between four and six, they 5 depart. And I'm aware of all of those different 6 periods of activity. And during the noon hour, I 7 try to make sure I'm visible in each of the Food 8 and Beverage Departments, because we could be 9 feeding up to six thousand people a day on a busy 10 winter operating day. We have nine restaurants.</p> <p>11 So I don't go in and necessarily flip 12 burgers, but I've done it many times. I might bus 13 tables. I might be making sure that we're clean 14 and neat. And all of our supervisory people are 15 hands-on in that same manner.</p> <p>16 The day doesn't end anymore at 4:00 when 17 the lifts stop, because our water park continues 18 to run, our restaurants continue to run, our 19 retail operations continue to run, our ice arena 20 continues to run. We run those facilities right 21 up until 9:00 or 10:00 at night. I, generally, 22 get out of Jay 6:30 in a winter operating day, 23 6:00, 6:30. They're long days, but it's a great 24 property and a great resort and we do great work.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 25</p> <p>1 And in the course of an average week, 2 you know, the slowest time of our operation is 3 usually the afternoons. The mornings, all hell 4 can break loose. But -- so if we're going to have 5 a developmental meeting or something about future 6 construction, it would usually occur in -- you 7 know, in the afternoons, not always. I mean, 8 sometimes the morning, but mostly -- so the 9 developmental side of a resort is -- and every 10 resort has this, how do you stay current, how do 11 you stay competitive, how do you stay contemporary 12 in terms of your facilities, and that implies 13 construction.</p> <p>14 Q So would it be fair to say that you're 15 involved in the construction of the various 16 buildings and structures in connection with 17 various limited partnerships?</p> <p>18 A I have awareness and involvement of all 19 the construction that's going on, yes.</p> <p>20 Q Including changes?</p> <p>21 A In most cases, yes. You know, in most 22 cases, yeah. I'm the President and CEO of an 23 organization. I have a fairly sizeable 24 construction group that works with me. So I'm 25 familiar with what we've built and when we built</p>

<p style="text-align: right;">Page 26</p> <p>1 it and how we built it. So I have a good general 2 understanding of those things.</p> <p>3 Q And do you have authority to do hiring 4 and firing?</p> <p>5 A I do.</p> <p>6 Q And can you tell me the names of the 7 different EB-5 limited partnerships?</p> <p>8 A I can. We have our first limited 9 partnership was -- I refer to it as the Tram Haus 10 Lodge. It's Phase I.</p> <p>11 Q Phase I.</p> <p>12 A And it was thirty-five investors, and we 13 constructed the Tram Haus Lodge facility within 14 that project.</p> <p>15 Q And -- so we'll call it Phase I.</p> <p>16 A Phase I. That's how I refer to it as. 17 That's all right.</p> <p>18 Q And who's the general partner?</p> <p>19 A The general partner, I'm the general 20 partner.</p> <p>21 Q You're the sole general partner?</p> <p>22 A Yes.</p> <p>23 MR. GORDON: Can I just see if we can 24 clarify that structurally for a second?</p> <p>25 MS. FUCHS-SINDLER: Yeah.</p>	<p style="text-align: right;">Page 28</p> <p>1 hope you understand what I'm talking about.</p> <p>2 BY MS. FUCHS-SINDLER:</p> <p>3 Q So do you recall that that's just the 4 name?</p> <p>5 A No, I'm not -- I apologize for not 6 knowing the phrase that I should use in 7 identifying.</p> <p>8 Q Resorts, which owns Jay Peak Resort 9 and who I am President and CEO of, are the general 10 partner for this project. And that's what my role 11 is and that's what -- that's what I understand and 12 that's true for all of these partnerships.</p> <p>13 If I don't know -- if I'm not properly 14 referring to the legal phrase, I apologize. And I 15 don't know if I can consult with David or not.</p> <p>16 MR. GORDON: Well, I think that they'd 17 like you to answer their questions, and I will ask 18 them, if it's okay, to help with clarifications.</p> <p>19 MS. LAMA: Is the general partner Jay 20 Peak Management, Inc.? Does that refresh your 21 memory?</p> <p>22 THE WITNESS: I apologize for not 23 knowing the phrase. I know what I do and I know 24 what -- and I apologize for not knowing the 25 phrase. And I'm not trying to allude or avoid</p>
<p style="text-align: right;">Page 27</p> <p>1 MR. GORDON: Because I'm concerned it 2 may be misleading.</p> <p>3 MS. FUCHS-SINDLER: Okay.</p> <p>4 MR. GORDON: Bill, are you individually 5 a general partner, or is there an entity that's 6 the general partner?</p> <p>7 THE WITNESS: There's an entity. I'm -- 8 I -- there's a subscription agreement, and I sign 9 the subscription agreement as the general partner.</p> <p>10 MR. GORDON: One more time?</p> <p>11 MR. JAMES: Sure.</p> <p>12 MR. GORDON: When you say as the general 13 partner, do you mean on behalf of the general 14 partner or individually --</p> <p>15 THE WITNESS: On behalf of the general 16 partner.</p> <p>17 MS. LAMA: Okay. What entity is the 18 general partner for Phase I?</p> <p>19 THE WITNESS: I'm not sure of the 20 technical phrase. I know the general partner -- I 21 sign that document. Q Resorts owns Jay Peak, 22 Inc., and Jay Peak, Inc., I sign the general 23 partnership subscription agreements, and I am the 24 representative of the general partner. So I 25 apologize if I don't have the legal phrase, but I</p>	<p style="text-align: right;">Page 29</p> <p>1 anything here. I know that you're asking a 2 technical question, and if I don't give you -- 3 I -- I'm sorry. I just -- I don't know the 4 phrase.</p> <p>5 BY MS. FUCHS-SINDLER:</p> <p>6 Q The name of the entity?</p> <p>7 A Yes.</p> <p>8 I know what the job is, and I know what 9 I was responsible for, and I know the subscription 10 agreement, and I sign it, and I have my 11 responsibilities.</p> <p>12 MR. JAMES: Are there any other 13 individuals that act on behalf of the general 14 partner for the Phase I limited partnership?</p> <p>15 THE WITNESS: I am definitely the person 16 that is responsible for the general partner's 17 duties. I know that.</p> <p>18 MR. JAMES: Okay. Okay.</p> <p>19 So putting aside your ability now to 20 remember the actual name of the general partner, 21 your testimony is that, regardless of what the 22 name is, you are the individual that solely 23 controls the general partner for Phase I in the 24 partnership?</p> <p>25 THE WITNESS: Yeah. And if you showed</p>

<p style="text-align: right;">Page 30</p> <p>1 me a subscription agreement, I imagine you have</p> <p>2 one, where I signed, it probably has the phrase of</p> <p>3 my title. So if you have such an example, if you</p> <p>4 would let me see it, I'll confirm it.</p> <p>5 MR. JAMES: Okay.</p> <p>6 But as far as my question, my question</p> <p>7 is: You are the sole individual that controls the</p> <p>8 general partner to the Phase I limited</p> <p>9 partnership?</p> <p>10 THE WITNESS: Yeah. Yes.</p> <p>11 MR. JAMES: So any actions I guess</p> <p>12 initiated by the general partner to Phase I</p> <p>13 would've been initiated by you individually, as</p> <p>14 opposed to another individual on behalf the</p> <p>15 general partner?</p> <p>16 THE WITNESS: I, as general partner,</p> <p>17 things that would be initiated, I would be aware</p> <p>18 of and participate in.</p> <p>19 MR. JAMES: For example, say if the</p> <p>20 general partner has an account at a financial</p> <p>21 institution, you would be the individual that</p> <p>22 would control that account held by the general</p> <p>23 partner?</p> <p>24 THE WITNESS: I would participate in --</p> <p>25 as I did, I participate in the payment of bills</p>	<p style="text-align: right;">Page 32</p> <p>1 MR. JAMES: Okay.</p> <p>2 THE WITNESS: I check the invoices. I</p> <p>3 make sure that the work has been done. I have my</p> <p>4 team of contractors and construction management</p> <p>5 people who will pre-authorize, yeah, that work was</p> <p>6 done and it's -- this invoice is accurate, and I</p> <p>7 sign the checks.</p> <p>8 I'll also, once I know what the needs</p> <p>9 are, the grouping of checks, the volume of money</p> <p>10 to be disbursed, I'll request that those funds be</p> <p>11 put into the accounts necessary to pay those</p> <p>12 bills. So I do that.</p> <p>13 BY MS. FUCHS-SINDLER:</p> <p>14 Q And is there anyone else who has</p> <p>15 authority to do that, what you just described for</p> <p>16 us?</p> <p>17 A I have -- I'm trying to think if there</p> <p>18 are any other of our staff. There are a couple of</p> <p>19 staff who have the authority to sign checks for</p> <p>20 Jay Peak, Inc., but I don't believe they have</p> <p>21 authority to sign checks for the partnerships. I</p> <p>22 think I'm the signer for all of them.</p> <p>23 Q Okay.</p> <p>24 When you said you're the signer for all</p> <p>25 the partnerships, first, let me -- I wanted to</p>
<p style="text-align: right;">Page 31</p> <p>1 and I participate in the creation of the movement</p> <p>2 of funds to pay bills and monitor that, yeah. I</p> <p>3 participate in them. I -- my -- my partner, Ariel</p> <p>4 Quiros, also is involved in the financial</p> <p>5 structure and apparatus of our organization.</p> <p>6 MR. JAMES: Okay.</p> <p>7 When you say participate, does that</p> <p>8 include actually authorizing the movement of money</p> <p>9 in and out of that account?</p> <p>10 THE WITNESS: I would, when bills are to</p> <p>11 be paid, would request that funds be made</p> <p>12 available for the payment of those bills usually</p> <p>13 on a monthly basis, but sometimes more than once a</p> <p>14 month, but usually on a monthly basis. As the</p> <p>15 construction proceeds, we would act accordingly</p> <p>16 and pay our bills for the developmental part of</p> <p>17 the business.</p> <p>18 MR. JAMES: But I guess the question is,</p> <p>19 whether you are the individual that needs to</p> <p>20 approve that payment? I know you said</p> <p>21 participate. You said involvement. Do you</p> <p>22 actually are the person that approves the money</p> <p>23 going to pay a particular bill from that account?</p> <p>24 THE WITNESS: Well -- yes, I do</p> <p>25 authorize -- I sign the checks.</p>	<p style="text-align: right;">Page 33</p> <p>1 find out, which partnerships are you referring to?</p> <p>2 A Well, you asked me a few minutes ago to</p> <p>3 talk about the partnerships and explain what they</p> <p>4 were. Would you like me to continue and explain</p> <p>5 that? Because that will help me be thorough with</p> <p>6 you. I only -- I spoke to you about the Phase I</p> <p>7 Tram Haus Lodge. There was --</p> <p>8 Q Just before we go to the next one --</p> <p>9 A I'm sorry. Yeah. Yeah.</p> <p>10 MS. LAMA: Just to clarify -- and we</p> <p>11 will continue with where we started a moment</p> <p>12 ago -- you just mentioned you're the signer for</p> <p>13 all the partnerships. Just to close this off a</p> <p>14 bit. Are you signer for accounts held at which</p> <p>15 financial institutions?</p> <p>16 THE WITNESS: Well, there are two</p> <p>17 principal banking institutions that we deal with</p> <p>18 in our business, People's United Bank, which is</p> <p>19 headquartered in Burlington, Vermont -- the</p> <p>20 Vermont bank portion is headquartered in</p> <p>21 Burlington, Vermont. And we also have banking</p> <p>22 relationships with Raymond James here in Florida.</p> <p>23 And I'm the signer for many of the</p> <p>24 accounts at the People's United Bank. My partner,</p> <p>25 Ariel Quiros, is the principal contact and has the</p>

<p style="text-align: right;">Page 34</p> <p>1 banking relationship principally with Raymond 2 James here in Florida.</p> <p>3 MS. LAMA: So for the Raymond James -- 4 for the accounts held at Raymond James, is Ariel 5 Quiros the signer for those accounts?</p> <p>6 THE WITNESS: Yes, he is, I believe. 7 Yeah. Well, he is.</p> <p>8 MS. LAMA: Are you signer for any of 9 those accounts?</p> <p>10 THE WITNESS: I don't believe so.</p> <p>11 MS. LAMA: And for People's United Bank, 12 for the escrow accounts held at People's United 13 Bank, are you the a signer for all of the escrow 14 accounts?</p> <p>15 THE WITNESS: I believe I am.</p> <p>16 MS. LAMA: And for all the deposit 17 accounts, you are also a signer?</p> <p>18 THE WITNESS: I am, yes.</p> <p>19 MS. LAMA: For the escrow accounts, is 20 there anyone else who is a signer?</p> <p>21 THE WITNESS: I don't think so. I'm not 22 sure if our CFO has any authority there or not, 23 but I'm not sure about that. That's why I said I 24 don't think so, but I -- but I don't -- the 25 signature cards were signed years ago, and I think</p>	<p style="text-align: right;">Page 36</p> <p>1 the signer on those accounts?</p> <p>2 THE WITNESS: Yes, I believe that's 3 correct.</p> <p>4 MR. JAMES: Would those include the 5 accounts for the limited partnerships, also?</p> <p>6 THE WITNESS: Anything that is at 7 Raymond James would be Ariel Quiros's purview.</p> <p>8 MR. JAMES: So including the limited 9 partnership accounts?</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. JAMES: And then how does that work 12 to the extent -- and earlier you testified about 13 making the request to pay bills from the accounts. 14 How does that work as to the accounts at Raymond 15 James?</p> <p>16 THE WITNESS: Well, would you like me to 17 go back to the formulation of our company and 18 explain the relationship with Raymond James? I'm 19 trying to do -- I'm trying to think of these 20 questions in a logical manner, and I think it is 21 meaningful to explain the history of that 22 relationship.</p> <p>23 MR. JAMES: Okay.</p> <p>24 THE WITNESS: If you don't mind.</p> <p>25 BY MS. FUCHS-SINDLER:</p>
<p style="text-align: right;">Page 35</p> <p>1 I'm the principal. I'm not sure even if Ariel 2 Quiros is a signator on that. He might be. When 3 we set up these accounts years ago, that he might 4 be on it, but he's -- I'm the principal person 5 that deals with People's United and transfers 6 funds and deals with them.</p> <p>7 We have an Accounting Department that is 8 very involved day to day with the bank, you know, 9 executing things or following through on a 10 request. Heather Whipkey is one of our principal 11 accountants, and she has very, very close 12 familiarity with People's United staff, and if 13 funds are to be wired or to be moved, she'll 14 facilitate that. She has the authorization to 15 interact with the bank.</p> <p>16 I don't -- I don't -- I know the people 17 at the bank, and I've met them, and I've talked to 18 them from time to time, but on a day-to-day basis 19 or week-to-week basis, it's mostly the accounting 20 team that we have that interacts directly.</p> <p>21 MR. JAMES: You mentioned the CFO, 22 what's his name?</p> <p>23 THE WITNESS: George Gulisano.</p> <p>24 MR. JAMES: And regarding the accounts 25 at Raymond James, you stated that Mr. Quiros is</p>	<p style="text-align: right;">Page 37</p> <p>1 Q Okay.</p> <p>2 A I mean, in the spirit of thoroughness 3 and completeness.</p> <p>4 You know, if you recall back in 2008, 5 and I know you know this because of the questions 6 you've asked, when Jay Peak was bought from Mont 7 Saint-Sauveur was in January of 2008. The closing 8 took place in June of 2008. And Mr. Quiros, who 9 is my partner and a friend, facilitated the 10 purchase. And his banking relationships were 11 largely with Raymond James, as were the other 12 contributors to the purchase of Jay Peak.</p> <p>13 And in 2008 in June, we were three 14 months before the collapse of the banking industry 15 in the United States. And we relied on, at Jay 16 Peak, being a new company in the eyes of banks in 17 a timeframe where banking opportunities were 18 evaporating and especially a ski area that's a 19 seasonal business, I was very, very glad that 20 Ariel Quiros had a really good banking 21 relationship with Raymond James.</p> <p>22 And we realized that because of that 23 quality banking relationship that he had, that 24 that was going to be a very helpful thing for us 25 in what was horrible times. I'm sure you remember</p>

Page 38

1 2008, but our financial opportunities were
 2 evaporating.
 3 And in many of our -- it's interesting.
 4 Many of our investor partners in the projects
 5 living in other parts of the world would always
 6 say, are you putting our funds in Citibank?
 7 Because they knew Citibank, and they thought, oh,
 8 Citibank's a rock. Right? And the answer was,
 9 no, we weren't putting them in Citibank, but --
 10 and, you know, here was an example of a major
 11 banking institution in 2008 that almost collapsed.
 12 We were putting our funds in Raymond
 13 James, and Mr. Quiros was buying Treasury bills
 14 with the funds from the partnerships. And we were
 15 using the strength of his relationship with
 16 Raymond James to help -- to help Jay Peak in its
 17 infancy under this new corporate structure.
 18 So he had a preexisting relationship
 19 with Raymond James. We were a new company in
 20 search of banking support, like a lot of companies
 21 were, and I was very glad that we had that
 22 opportunity.
 23 Now, People's United is a small regional
 24 bank with certain capacities, but certainly not
 25 major, major capacity. So I don't know if that

Page 39

1 explains it, but I hope it rounds out the
 2 question.
 3 And Mr. Quiros coordinates and was the
 4 signatory for those accounts at Raymond James and
 5 was the go-to person for that.
 6 MR. JAMES: In mentioning I guess the
 7 relationship or I guess the preexisting
 8 relationship with Raymond James, you talked about
 9 the fact that the investor funds are I guess
 10 deposited or transferred to Raymond James and then
 11 at Raymond James they buy Treasury bills with the
 12 funds?
 13 THE WITNESS: Yeah. We're moving
 14 forward here from these other partnership
 15 questions, which I'm sure we'll come back to.
 16 When an investor invested in one of our
 17 projects, we would take the funds and transfer
 18 them to Raymond James and Mr. Quiros would invest
 19 in Treasury bills, safe, secure, guaranteed by the
 20 full faith and credit of the United States
 21 government. And in 2008, we could not thought of
 22 a better place in which to put our investor funds,
 23 and I was very glad that we did that.
 24 MR. JAMES: So it's -- just to get the
 25 full past. So the investor funds would come into

Page 40

1 the People's bank accounts at Raymond James --
 2 THE WITNESS: Correct.
 3 MR. JAMES: -- limited partnerships?
 4 THE WITNESS: No. Come into People's
 5 United Bank.
 6 MR. JAMES: Sorry. People's United
 7 Bank.
 8 THE WITNESS: And then we would transfer
 9 them down to Raymond James to put them into the
 10 account there and buy Treasury bills.
 11 MR. JAMES: Okay.
 12 So, ultimately, when the funds now
 13 needed to be used for construction with the
 14 partnership, what happened in that regard?
 15 THE WITNESS: Well, what would happen
 16 is -- so there's a fund at Raymond James, and when
 17 we had a stack of checks to be cut, funds would be
 18 transferred back from Raymond James to the
 19 People's United checking account, and from that
 20 account, we would write the checks and pay the
 21 vendors that were appropriate.
 22 MR. JAMES: Okay. So the Treasury bills
 23 would be sold, and then those proceeds would then
 24 be transferred to the People's Bank account --
 25 THE WITNESS: Correct.

Page 41

1 MR. JAMES: -- to pay bills?
 2 THE WITNESS: Correct.
 3 And, you know, as you know, there's a
 4 limit to what a bank can guarantee, but when you
 5 have many millions of dollars in Treasury bills,
 6 they're guaranteed by the full faith and credit of
 7 the United States, which is a better outcome when
 8 you're talking with an investor. And every
 9 investor that knew that we were invested in
 10 Treasury bills were pretty happy about that.
 11 MR. JAMES: But in talking about that
 12 preexisting relationship, you referenced the
 13 2008 -- I guess January 2008 purchase, the June
 14 2008 closing.
 15 THE WITNESS: Closing.
 16 MR. JAMES: But what was Raymond James's
 17 role in that? You mentioned, thankfully, you had
 18 that relationship at that time.
 19 THE WITNESS: Well, we -- Mr. Quiros is
 20 my partner, and I have known Ariel Quiros for
 21 twenty, plus years, maybe twenty-five years, so --
 22 as a homeowner at Jay Peak and as someone who
 23 knows Vermont, and I was a friend, and, you know,
 24 he knew me well, passionate about what Jay Peak
 25 was doing.

<p style="text-align: right;">Page 42</p> <p>1 When my prior partner died in 2006, the 2 family that owned Jay Peak at the time was willing 3 to entertain a buyout. They were a Quebec family 4 with property in Quebec. They did not want to 5 retain the Vermont area. And they invited me to 6 put together a team to buy Jay Peak. And I 7 mentioned earlier this master plan that we had 8 been working on, this vision of the resort. 9 Implementing that vision was incredibly important 10 to my community, to me, to my staff. And Ary 11 shared the vision. He understood the blueprint. 12 So between the debt of Jacques Hebert, 13 in March of '06 and January of '08, we -- you 14 know, we worked on how to bring about the sale of 15 Jay Peak. And he had -- he had his own resources. 16 He had some partners that he had relationships 17 with. And Raymond James was where he had his 18 personal assets. And he -- we put together a plan 19 to purchase the area from the prior owners, and 20 that plan, the plan was agreed upon. 21 We took I believe day-to-day operational 22 control on I believe it was January 27th of 2008, 23 and the closing I think was June 23rd or something 24 like that in 2008. And we operated and 25 technically I believe owned the area from the</p>	<p style="text-align: right;">Page 44</p> <p>1 THE WITNESS: Well, he has businesses 2 internationally. He's involved in international 3 trade and commerce. And that was his -- it's a 4 South Florida or a Florida-based company, and he 5 had that relationship. I don't know the -- 6 what -- I think it's a combination of physical 7 relationship here in Florida and the fact that he 8 had been working with them for sometime on his 9 other -- his other activities. 10 MS. LAMA: You mentioned that technical 11 or operational control of the facility was in 12 January 2008 and then the actual closing was in 13 June 2008. 14 THE WITNESS: Uh-huh. 15 MS. LAMA: What was the difference in 16 time there? 17 THE WITNESS: Well -- 18 MS. LAMA: Why did the closing occur 19 later? If you could briefly explain that. 20 THE WITNESS: Oh, I think it was just 21 that that was going to take us some time to get 22 the capital together. There were a lot of details 23 to work out. We had real estate holdings. We 24 had -- I mean, it was a complicated transaction. 25 I'm not a real estate lawyer, but it's not a</p>
<p style="text-align: right;">Page 43</p> <p>1 January 27th date. And Ary facilitated the sale 2 and the accumulation of the cash required to make 3 the purchase. 4 I ran the day-to-day operations, was 5 continuing to work on the EB-5 program. And we'd 6 launched into a new era in the middle of probably 7 one of the most turbulent financial periods in the 8 history of this country. 9 Three months later, everything in a lot 10 of worlds went bad. Our world held up in no small 11 part because he had a relationship with Raymond 12 James. And Raymond James, if I look back now and 13 I look at Morgan Stanley, Goldman Sachs, Lehman 14 Brothers, and Bear Stearns, and Raymond James, and 15 I think who survived and who didn't and who got 16 through that really well, I would say Raymond 17 James came through it better than anybody. And 18 I'm very glad that he had a relationship with them 19 and his relationship wasn't with Lehman Brothers, 20 because we all know what happened. 21 So, you know I'm -- I look back, and I 22 think, my God, thank goodness we had that 23 relationship with Raymond James. 24 MS. LAMA: And how is it that he had 25 this relationship with Raymond James?</p>	<p style="text-align: right;">Page 45</p> <p>1 very -- it's not uncommon to take control of an 2 organization or an operation on day one, and then 3 you set the closing date, you know, three or four 4 months later when you can get all your paperwork 5 completed and so forth. 6 We wanted to have operational control in 7 January or as early in the year as we could 8 because that was the big income period of the 9 season. We -- prior to our development of our 10 other amenities that I know we'll talk about, 11 skiing in 2008 was about ninety-five percent of 12 our income on an annualized basis. And so the 13 sooner we could get and have operational control, 14 the better. I mean, we're running a business and 15 you've got bills to pay and income to pay them. 16 So if you take ownership of a ski resort 17 in April or May of a given year, it's probably 18 until next November or December before there's 19 going to be an income stream. No ski area 20 operator would want that. And in 2008, we were 21 largely a ski area operator. 22 So we wanted to have control in the 23 company that was selling. Based on the price of 24 what we were offering them was understanding of 25 the fact that we were interested in getting the</p>

Page 46

1 control.

2 MR. JAMES: What was the price?

3 THE WITNESS: It was fifteen million,

4 and we assumed some -- some preexisting debt.

5 MR. JAMES: Any sense of what was the --

6 THE WITNESS: I think the preexisting

7 debt was somewhere in the seven, eight million

8 dollar range. And some of that was longer-term

9 chair lift liabilities with Vermont Economic

10 Development Authority and things like that.

11 MS. LAMA: Were there subsequent closing

12 adjustments that you recall that increased the

13 purchase price beyond the fifteen million cash and

14 the seven, eight million in preexisting debt --

15 THE WITNESS: I don't recall any, but

16 that doesn't mean there might not have been. I

17 mean, the closing was done in June. It was done

18 by, you know, the attorneys that represented us

19 and represented the prior owner. And I mean, I

20 think it, basically, pretty much what I just

21 mentioned.

22 MS. LAMA: Okay.

23 THE WITNESS: I know those closing

24 documents exist and it could be shared with you,

25 if you wanted.

Page 47

1 MS. LAMA: And you mentioned that during

2 the period of time between June -- between, I'm

3 sorry --

4 THE WITNESS: January.

5 MS. LAMA: -- January 2008 and June

6 2008, that efforts were being made to raise -- to

7 put the capital together?

8 THE WITNESS: Sure.

9 MS. LAMA: Who was involved with that?

10 THE WITNESS: Oh, it was largely Ary.

11 You know, he was organizing the funds and

12 preparing for the closing. Like any acquisition

13 of anything, whether it's a house or a car, you

14 agree on the purchase, you agree on what you're

15 going do, and then you put together your funds to

16 make the acquisition.

17 MS. LAMA: And what's your understanding

18 of how Quiros pulled the funds together? What

19 options was he looking at? How did he pull the

20 funds together?

21 THE WITNESS: He had his own funds. He

22 had some funds from business partners that he had.

23 Those were -- and, you know, the Raymond James

24 relationship was part of that.

25 BY MS. FUCHS-SINDLER:

Page 48

1 Q When you say Raymond James relationship

2 was part of that, what do you mean?

3 A Well, he had his -- all of his assets in

4 Raymond James, and if you're looking for the

5 ability to get access to capital, you go to your

6 bank. You go to your bank.

7 He had a banking relationship with these

8 folks. He had his personal assets there. He had

9 assets from other business associates there. And

10 to the degree that he could benefit from the

11 relationship he had with Raymond James, he did.

12 MS. LAMA: Okay.

13 And from your understanding, how did --

14 what funds did Quiros use to make the acquisition?

15 THE WITNESS: Well, he -- there was a

16 deposit made, and then there was a closing date

17 established. And on the closing date, there were

18 transfers made. And then there were -- some of

19 the debt was structured to be paid at other times.

20 And he facilitated that with our attorneys and

21 with Raymond James.

22 BY MS. FUCHS-SINDLER:

23 Q He, being Mr. Quiros?

24 A Yes. Yes.

25 MR. JAMES: And the deposit you said

Page 49

1 that was made, that was the deposit made in early

2 January 2008?

3 THE WITNESS: I know that when we signed

4 an agreement of sale, there was a deposit given. I

5 don't recall what that number was, but I mean, it

6 was I think -- I don't know what that number was.

7 But, you know, I'm sure the record -- I mean,

8 obviously, but it's available to be determined.

9 MR. JAMES: But that deposit is separate

10 from the transfers that were made in connection

11 with the actual closing itself in June?

12 THE WITNESS: I'm hesitant to answer

13 something that I -- precise date and amount. And

14 I know that the precise information is available

15 to us, and I'm happy to provide it, but I don't --

16 I don't recall right now the exact amount of the

17 deposit, what the date was, or what account it

18 came from. I assume it came from the Jay Peak

19 account or Q Resorts account. I'm not sure at

20 this point. I mean, it's been eight years -- six

21 years.

22 MR. JAMES: And I think when Trisha was

23 doing the lead into testimony today, I think she

24 explained to you that even in instances where you

25 don't have a full, complete recollection of

<p style="text-align: right;">Page 50</p> <p>1 answers to questions we're asking, if you have 2 partial recollection, you can still answer, well, 3 you vaguely remember XYZ, or you can say, well, I 4 think it is --</p> <p>5 THE WITNESS: Well, and I think I've 6 done that. I think I told you I think there was a 7 deposit. There was a date established for 8 transition of ownership, a date established for 9 closing.</p> <p>10 In between the time of the ownership 11 change and the closing, I was running the 12 day-to-day ski area operations that I outlined for 13 you a few minutes ago, what I do on a day-to-day 14 basis. My job between -- every day, the 27th of 15 January and that closing date was, run that ski 16 area, have a successful winter as we can have, 17 have as positive a cash outcome as we can. And 18 Ary was pulling together the funds for the closing 19 that was on the 23rd of June.</p> <p>20 I was actually in Vancouver, Canada on 21 the day of the closing at an American Immigration 22 Lawyers Association meeting promoting our Phase II 23 project when the closing occurred. I wasn't even 24 in Vermont. It was all being done with our 25 attorneys, their attorneys, and -- and Mr. Quiros.</p>	<p style="text-align: right;">Page 52</p> <p>1 price, is it your understanding that that money 2 was transferred from Raymond James?</p> <p>3 THE WITNESS: I know that on the day of 4 the closing, that the closing occurred and that 5 the funds required for the closing were received 6 by Mont Saint-Sauveur, and it came from Raymond 7 James.</p> <p>8 MS. LAMA: Okay. If we can step back 9 for a moment, and then, perhaps, you can help us 10 understand how this acquisition was financed or 11 paid for, that would be something we would like to 12 focus on.</p> <p>13 In leading up to the acquisition, were 14 funds transferred from escrow accounts held by Jay 15 Peak Phase I and Phase II to accounts at Raymond 16 James by MSSJ?</p> <p>17 THE WITNESS: I suspect at the time 18 of -- yeah, they would've -- they would've been 19 transferred to Raymond James at some point. They 20 would've, yes.</p> <p>21 MS. LAMA: Okay. Okay.</p> <p>22 So in terms of -- can you explain to us 23 why the monies were moved to Raymond James and 24 what happened to those monies after they were 25 moved to Raymond James, pre-acquisition and around</p>
<p style="text-align: right;">Page 51</p> <p>1 MR. JAMES: So do you have any knowledge 2 as to -- and I'm focusing on the transfers of 3 money from Q Resorts to the seller, MSSJ, the 4 Canadian owners of Jay Peak at that time, as to 5 those transfers, do you have any knowledge as to 6 where Mr. Quiros pulled those funds from?</p> <p>7 THE WITNESS: I'm sure it came from the 8 Raymond James accounts that he had control over.</p> <p>9 MR. JAMES: And why are you sure of 10 that?</p> <p>11 THE WITNESS: Well, because that's where 12 all of his banking was. We didn't have banking 13 with People's United in that manner. I mean, his 14 banking relationships were with Raymond James.</p> <p>15 MR. JAMES: So as far as --</p> <p>16 THE WITNESS: I don't know of any other 17 banking relationships that he had, other than 18 maybe some local bank for his personal checking, 19 but, you know, that was the banking organization 20 that he -- he worked with.</p> <p>21 MR. JAMES: Okay. So is it your 22 understanding that the fifteen million sale 23 price -- and this is not counting the -- you know 24 the preexisting debt or the long-term debt that he 25 assumed, but the fifteen million actual base sale</p>	<p style="text-align: right;">Page 53</p> <p>1 the time of acquisition?</p> <p>2 THE WITNESS: I know that the funds that 3 we had were transferred to Raymond James, and they 4 were put into -- there was an account established 5 for each partnership in Raymond James, and that's 6 when they were -- that's where they were. That 7 was the depository for the funds.</p> <p>8 MS. LAMA: Okay.</p> <p>9 And so that we're specific, the funds 10 that were moved, these are investor funds related 11 to Phase I and Phase II that were moved to Raymond 12 James?</p> <p>13 THE WITNESS: We had funds for both 14 projects at that time, and I know that we were 15 setting up accounts at Raymond James for both 16 accounts. So the answer I believe is yes.</p> <p>17 MS. LAMA: Okay.</p> <p>18 So those were investor funds that were 19 moved to Raymond James?</p> <p>20 THE WITNESS: Uh-huh.</p> <p>21 MS. LAMA: Okay.</p> <p>22 And once those investor funds were moved 23 to Raymond James, what took place next with those 24 investor funds?</p> <p>25 THE WITNESS: Well, they -- we continued</p>

<p style="text-align: right;">Page 54</p> <p>1 to add to those funds as investor investment took</p> <p>2 place, especially at that point I believe it would</p> <p>3 be Phase II, and the funds were there for the</p> <p>4 utilization of what our business was.</p> <p>5 MS. LAMA: Okay.</p> <p>6 And, initially -- and I'm still speaking</p> <p>7 to pre-acquisition and around the time --</p> <p>8 pre-closing and around the time of closing.</p> <p>9 THE WITNESS: Yeah. Acquisition and</p> <p>10 closing are two different things. You combined</p> <p>11 the two there.</p> <p>12 MS. LAMA: Right. And I tried to</p> <p>13 correct myself.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MS. LAMA: At pre-closing and around the</p> <p>16 time of closing, the investor funds that were</p> <p>17 moved to Raymond James, what took place with those</p> <p>18 investor funds around the time of closing?</p> <p>19 THE WITNESS: I don't -- I don't know</p> <p>20 specifically. I know that the closing was in</p> <p>21 June. Funds were transferred I'm sure from</p> <p>22 Raymond James to Mont Saint-Sauveur from accounts</p> <p>23 that Mr. Quiros was in control of to facilitate</p> <p>24 the final closing on the 23rd of June, I think it</p> <p>25 was the 23rd.</p>	<p style="text-align: right;">Page 56</p> <p>1 and he was handling that. And I know that the</p> <p>2 sources of funds that he used for the closing were</p> <p>3 multiple, and he's best able to answer those</p> <p>4 specifically.</p> <p>5 MS. LAMA: And why do you say the</p> <p>6 sources of funds were multiple?</p> <p>7 THE WITNESS: Well, because a minute</p> <p>8 ago, I told you that he had all of his personal</p> <p>9 wealth and his other investment holdings at</p> <p>10 Raymond James. He has more involvement with</p> <p>11 Raymond James than just his involvement at Jay</p> <p>12 Peak, and that was sort of the strength of our --</p> <p>13 of our ability to have a banking relationship.</p> <p>14 MS. LAMA: Okay.</p> <p>15 Around the time of the closing or as</p> <p>16 part of this financing of this purchase, were</p> <p>17 there discussions about -- or did you participate</p> <p>18 in discussions with Mr. Quiros about his obtaining</p> <p>19 a loan to pay for the purchase?</p> <p>20 THE WITNESS: No. No, he never</p> <p>21 discussed a loan with me. He indicated that he</p> <p>22 had some other business partners that might play a</p> <p>23 role, and, you know, that was up to him.</p> <p>24 MS. LAMA: Okay. Were there any</p> <p>25 discussions about using investor funds as</p>
<p style="text-align: right;">Page 55</p> <p>1 MS. LAMA: Okay.</p> <p>2 And when you say that funds were</p> <p>3 transferred from Raymond James to MSSSI to</p> <p>4 facilitate the closing, are we speaking about the</p> <p>5 same investor funds?</p> <p>6 THE WITNESS: I -- I don't know which</p> <p>7 accounts he used, but I know the closing took</p> <p>8 place on that day, and there were funds that were</p> <p>9 used from his Raymond James accounts to facilitate</p> <p>10 the sale, do the closing.</p> <p>11 MS. LAMA: Okay.</p> <p>12 And do you know what those funds were?</p> <p>13 THE WITNESS: I don't know the specific,</p> <p>14 which accounts they came from. He may have pulled</p> <p>15 them from various accounts.</p> <p>16 MS. LAMA: Okay.</p> <p>17 Do you know if any of the funds were the</p> <p>18 investor funds that -- were the investor funds</p> <p>19 that were transferred to Raymond James?</p> <p>20 THE WITNESS: I don't know if they were</p> <p>21 or not. They might've been. I don't know.</p> <p>22 MS. LAMA: And why do you say they may</p> <p>23 have been?</p> <p>24 THE WITNESS: Well, I don't know the</p> <p>25 exact accounts that they were transferred from,</p>	<p style="text-align: right;">Page 57</p> <p>1 collateral for a loan?</p> <p>2 THE WITNESS: No, I had no discussions</p> <p>3 with him about that.</p> <p>4 MR. JAMES: Do you recall any</p> <p>5 discussions specifically about investor funds not</p> <p>6 being used for collateral for a purchase loan?</p> <p>7 THE WITNESS: No. I was running the ski</p> <p>8 area and dealing with the investment program. He</p> <p>9 was taking lead on bringing the funds together for</p> <p>10 the closing with Mont Saint-Sauveur. And I did</p> <p>11 not participate in much of that at all because I</p> <p>12 was doing other things.</p> <p>13 And, you know, he coordinated the</p> <p>14 closing, which, you know, it was because that's an</p> <p>15 area of knowledge and relationship that existed,</p> <p>16 and I didn't have that relationship. I didn't</p> <p>17 have a relationship with Raymond James. He did.</p> <p>18 And he had the access to capital that was going to</p> <p>19 help us be able to do the closing. And, you know,</p> <p>20 that was the basis of things.</p> <p>21 MR. JAMES: Had he shown you any bank</p> <p>22 statements or other evidence of this capital, this</p> <p>23 personal wealth that he was going to use in these</p> <p>24 Raymond James accounts?</p> <p>25 THE WITNESS: You know, I never asked</p>

<p style="text-align: right;">Page 58</p> <p>1 him to show me that because, you know, I just --</p> <p>2 you know, I have a certain amount of just trust</p> <p>3 that, you know, he was going to be able to pull it</p> <p>4 together, and I had no reason to doubt that.</p> <p>5 BY MS. FUCHS-SINDLER:</p> <p>6 Q When he indicated he might have other</p> <p>7 business partners involved with the</p> <p>8 capitalization, did he identify them?</p> <p>9 A He mentioned that he had some partners</p> <p>10 that were from Korea that he did -- had some</p> <p>11 business relationships with. And in subsequent --</p> <p>12 at that time, I had never met them. Subsequently,</p> <p>13 I have met a couple of them, but they were</p> <p>14 short-term -- I think short-term partners, you</p> <p>15 know, for a few years.</p> <p>16 Q Did he tell you or did they ever tell</p> <p>17 you that part of their money had been used for the</p> <p>18 acquisition?</p> <p>19 A They never told me, and I never asked,</p> <p>20 but I was advised that they had played a role in</p> <p>21 pulling together the capital at the time of</p> <p>22 purchase to help us facilitate it.</p> <p>23 Q You were advised by who?</p> <p>24 A By Ary.</p> <p>25 Q When you said they were involved, what</p>	<p style="text-align: right;">Page 60</p> <p>1 for the acquisition?</p> <p>2 A I would think that wouldn't be --</p> <p>3 wouldn't be appropriate.</p> <p>4 Q Why do you say that?</p> <p>5 A Well, if I'm using someone else's money</p> <p>6 that I don't have a right to, I mean, obviously,</p> <p>7 that wouldn't be the right approach. But his --</p> <p>8 as I said, his relationship with Raymond James was</p> <p>9 broad, and, you know, they offered him a number of</p> <p>10 different avenues to do business. And as I said,</p> <p>11 he can best explain the complexity of that.</p> <p>12 But, you know, there are a number of</p> <p>13 things that he has access to. And because of his</p> <p>14 personal banking and his associates' banking, all</p> <p>15 of our funds being in the Treasury bill program</p> <p>16 there, he had -- he had the ability to put it all</p> <p>17 altogether.</p> <p>18 MS. LAMA: For Jay Peak Hotel Suites</p> <p>19 Phase I and Jay Peak Hotel Suites Phase II, for</p> <p>20 the funds that were -- investor funds that were</p> <p>21 deposited into Raymond James, were -- to your</p> <p>22 understanding, were any margin loans taken in</p> <p>23 those accounts around the time of acquisition --</p> <p>24 closing?</p> <p>25 THE WITNESS: I don't know the answer to</p>
<p style="text-align: right;">Page 59</p> <p>1 does that mean?</p> <p>2 A They contributed some money.</p> <p>3 Q Did he say how much?</p> <p>4 A He did not. But he said that they were</p> <p>5 very helpful in helping us make it possible.</p> <p>6 Q Did he say how much of his own money he</p> <p>7 had contributed?</p> <p>8 A He did not.</p> <p>9 Q And back to the question about -- I know</p> <p>10 you said there was no discussion about collateral.</p> <p>11 Could investor funds have been used as collateral</p> <p>12 for the purchase, for the acquisition?</p> <p>13 A I don't know. You said could they. I</p> <p>14 don't know -- could -- does could mean they were,</p> <p>15 or does could mean they could? I don't know if</p> <p>16 they could've been used.</p> <p>17 I know that Ary was coordinating the</p> <p>18 purchase and that was his job. And we had -- he</p> <p>19 had his relation -- his banking relationships with</p> <p>20 Raymond James. And between his personal assets</p> <p>21 and his business associate assets and his</p> <p>22 relationships with Raymond James, he was able to</p> <p>23 put together the sale. And that's what I know.</p> <p>24 Q In your view, is it permissible to use</p> <p>25 investor assets as collateral for the purchase,</p>	<p style="text-align: right;">Page 61</p> <p>1 that. The facilitation of the sale was done by</p> <p>2 Mr. Quiros, and he controlled, and to this day</p> <p>3 controls the relationship at Raymond James. And</p> <p>4 if I were to speculate, I would be making a</p> <p>5 mistake, because I don't know. I don't know.</p> <p>6 MR. JAMES: What about --</p> <p>7 THE WITNESS: I know that the funds came</p> <p>8 from Raymond James. And I know that he controlled</p> <p>9 those funds and had multiple relationships within</p> <p>10 Raymond James. And I don't know the specific</p> <p>11 program or account or -- that he used, but I know</p> <p>12 the closing took place.</p> <p>13 And to go a little further, the project</p> <p>14 got built, and we accomplished an incredible task</p> <p>15 of buying a resort in 2008, investing and building</p> <p>16 a magnificent hotel and another magnificent hotel.</p> <p>17 And the exact account or how it was formulated,</p> <p>18 you should ask him specifically, because he can,</p> <p>19 I'm sure, put great clarity on it. I cannot.</p> <p>20 MS. LAMA: At any point, did you obtain</p> <p>21 an understanding that there were margin loans in</p> <p>22 the Phase I and Phase II account at Raymond James?</p> <p>23 THE WITNESS: I know that there were</p> <p>24 accounts for Phase I and Phase II and that he had</p> <p>25 his money in there as well. And what formulas or</p>

Page 62

1 instruments he had access to through Raynond James
 2 were his -- that was his purview. I did not get
 3 involved in that aspect of our operation.
 4 I've heard the term "margin loan" thrown
 5 around. I do not know if that had anything to do
 6 with this transaction. I don't.
 7 **Q Do you know the names of the individuals**
 8 **that Mr. Quiros said he obtained funding from in**
 9 **connection with the acquisition?**
 10 A I know a couple of them, yeah.
 11 **Q What are the names?**
 12 A Alex Choi and Dr. C. Y. Lee are two of
 13 them.
 14 **Q At any point, have you ever been a**
 15 **signatory on any of the Raymond James accounts?**
 16 A No.
 17 **Q Was there ever any discussion between**
 18 **you and Mr. Quiros about that, about adding you?**
 19 A I don't think so.
 20 **Q Did you ever ask to be added?**
 21 A No. No. No. He's my partner. I trust
 22 him. He had a banking relationship.
 23 Remember what we were going through in
 24 2008. We just acquired an entity, and there were
 25 no banking relationships available to new

Page 63

1 companies, none. I defy you to find a new company
 2 that could find a substantive banking relationship
 3 in 2008 and 2009. He had one. He had a
 4 substantive banking relationship with Raymond
 5 James. And were it not for that relationship, I
 6 don't think we could've succeeded or survived. We
 7 would've failed just like a lot of companies
 8 failed in that era.
 9 So, you know, I -- I trusted him and do
 10 trust him that we've looked after Jay Peak and
 11 every partnership that we have, and we've -- we've
 12 done remarkable work.
 13 MR. JAMES: And I guess --
 14 THE WITNESS: And I just don't know the
 15 particulars of the closing day and how and exactly
 16 what instruments he might've used. And you might
 17 say, well, how could you not know that? Well,
 18 I've got a hell of lot of things I'm doing. You
 19 have no idea how busy and committed to these other
 20 things -- he took care of the banking. I took
 21 care of the operation and development and the
 22 growth of this resort.
 23 And I'm little embarrassed that I don't
 24 know all the details. I'll tell you. You know,
 25 maybe I should. But, you know, when you have a

Page 64

1 partner that is the coordinator of the finance and
 2 that's what he's good at and that's what he knows
 3 and it's his relationship, I'm not going to
 4 micromanage him. You're taking care of feeding
 5 the engine that I'm trying to drive in a creative
 6 and productive future. So, you know --
 7 MR. JAMES: No. I understand that. But
 8 I guess my initial question was to the
 9 significance of the Raymond James relationship.
 10 Because if you're saying by 2008 there was,
 11 basically, a lending drought and there were no
 12 banks lending money --
 13 THE WITNESS: To new companies, yeah.
 14 MR. JAMES: -- to new companies, besides
 15 Raymond James, right?
 16 THE WITNESS: No. No. We had a
 17 relationship, Brian, with Raymond James. If you
 18 try to start a new relationship, a new company
 19 with a new bank, good luck. He had a relationship
 20 with Raymond James. Thank God he did.
 21 MR. JAMES: And that's my question. Is
 22 Raymond James's role in the acquisition or in the
 23 closing was that they loaned Mr. Quiros the money
 24 or --
 25 THE WITNESS: I --

Page 65

1 MR. JAMES: Let me finish.
 2 THE WITNESS: I'm sorry.
 3 MR. JAMES: Because when you referenced
 4 that he had assets, himself and his contributors
 5 had assets at Raymond James, then it sounds as if
 6 he has the cash to pay the closing, as opposed to
 7 needing to loan it from Raymond James. So why is
 8 Raymond James significant?
 9 THE WITNESS: Well, access to cash can
 10 be any number of things. It may be your personal
 11 assets. It may be the leverage the bank is
 12 willing to give you because of your assets.
 13 I mean, you know, when you're dealing
 14 with an acquisition of a piece of equipment or a
 15 property or a company, there are any number of
 16 ways in which a bank might offer you an
 17 opportunity to access capital. And it was his
 18 purview and his expertise and his relationship.
 19 If I walked into the Raymond James
 20 office here in Florida, Bill Stenger, well known
 21 in Vermont, you know what they'd have said? Big
 22 deal, we don't know you. Ary knew them. Ary had
 23 that relationship. And in trying to put together
 24 the sale, so that we could implement the vision of
 25 the master plan and do the things that we've done,

<p style="text-align: right;">Page 66</p> <p>1 were it not for that relationship, it wouldn't 2 have happened. 3 MR. JAMES: But you don't know exactly 4 how -- 5 THE WITNESS: I don't know the -- I 6 don't know the internal precise accounts and how 7 it was done, but I know it was successfully 8 completed, and he did it with the support of the 9 Raymond James relationship. 10 MR. JAMES: Okay. 11 So to the extent Raymond James did 12 extend a loan to Mr. Quiros for -- 13 THE WITNESS: I -- I'm sorry. I'm 14 sorry. 15 MR. JAMES: Just follow me. 16 THE WITNESS: I apologize. 17 MR. JAMES: Say, hypothetically, that's 18 what occurred, and I understand your testimony is 19 that you don't know exactly what role Raymond 20 James played as far as funding the closing, but 21 say what they did do was extend Mr. Quiros a loan 22 in which he was going to acquire or at least fund 23 the closing. I think what you testified to 24 earlier is, that it wouldn't be permissible for 25 him to use investor funds as collateral for that</p>	<p style="text-align: right;">Page 68</p> <p>1 Q Mr. Stenger, the court reporter has just 2 marked as Exhibit No. 94 a two-page document. It 3 appears to be a letter from Spiegel Sohmer, dated 4 June 18th, 2008 to Mr. Joel Burstein. 5 MR. JAMES: Mr. Stenger, take a look at 6 that letter and let me know when you're finished. 7 Mr. Stenger, have you seen Exhibit No. 8 94 before? 9 THE WITNESS: No. 10 MR. JAMES: Okay. Based on what's in 11 front of you, would you agree that this appears to 12 be a letter on a Spiegel Sohmer law firm 13 letterhead that's dated June 18th, 2008 and it's 14 signed by Mr. Alwynn Gillett, that's 15 G-I-L-L-E-T-T? Do you see that? 16 THE WITNESS: I do. 17 MR. JAMES: Okay. 18 Do you see the cc's that it's directed 19 to a Joel Burstein at Raymond James, but it cc's a 20 number of individuals? 21 THE WITNESS: Uh-huh. 22 MR. JAMES: Okay. Do you see that your 23 name is included as one of those individuals that 24 was cc'd on this letter? 25 THE WITNESS: I do.</p>
<p style="text-align: right;">Page 67</p> <p>1 loan that he's going to use now to help fund it. 2 THE WITNESS: I don't know if it was a 3 loan. That's why I, ultimately, tried to 4 interrupt you. 5 MR. JAMES: Okay. But, hypothetically, 6 if it was a loan, was your testimony that it 7 wouldn't be permissible for Mr. Quiros to use 8 investor funds as collateral for that loan? 9 THE WITNESS: I would think probably 10 not, but I don't think he did that. 11 MR. JAMES: Okay. 12 Do you remember any discussions in or 13 around the time of closing either with the sellers 14 or with anyone at Raymond James about the money, 15 the investor funds that were transferred over to 16 Raymond James from People's Bank, do you remember 17 any conversations about that money not being used 18 as collateral or at least someone seeking 19 confirmation of that? 20 THE WITNESS: I do not recall any 21 conversations around the time of closing. I mean, 22 it was in June of 2008, and it's a long time ago. 23 (SEC Exhibit No. 94 was marked 24 for identification.) 25 BY MS. FUCHS-SINDLER:</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. JAMES: Along with Mr. Quiros, who 2 we've talked about before, as well as some other 3 individuals? 4 THE WITNESS: Yes. 5 MR. JAMES: By the way, who is Mr. Louis 6 Hebert and Mr. Louis Dufour, and that's 7 D-U-F-O-U-R? 8 THE WITNESS: Louis Hebert is the son of 9 the principal shareholder of Mont Saint-Sauveur, 10 who had passed away prior to this transaction. And 11 Louis Dufour is -- was one of the principal 12 partners of that organization, also. 13 The Hebert family owned I believe about 14 sixty-five percent of Mont Saint-Sauveur. And Mr. 15 Dufour I think owned about twenty or twenty-five 16 percent. 17 MR. JAMES: So these two would be the 18 representatives the seller? 19 THE WITNESS: Correct. 20 MR. JAMES: And then just to complete 21 the list, I also see a Mr. William Kelly as a cc. 22 THE WITNESS: Yes. 23 MR. JAMES: Who is Mr. Kelly? 24 THE WITNESS: He's legal counsel for our 25 company.</p>

<p style="text-align: right;">Page 70</p> <p>1 MR. JAMES: Okay. And our company would</p> <p>2 be Jay Peak, Inc.?</p> <p>3 THE WITNESS: Correct.</p> <p>4 MR. JAMES: Okay. And Fred Burgess?</p> <p>5 THE WITNESS: He was a -- an attorney</p> <p>6 that did -- was a closing agent.</p> <p>7 MR. JAMES: Okay. And he represented</p> <p>8 the buyer?</p> <p>9 THE WITNESS: He represented the</p> <p>10 buyer.</p> <p>11 MR. JAMES: And if you go back to the</p> <p>12 first page, you see the June 18th, 2008 date?</p> <p>13 THE WITNESS: Uh-huh.</p> <p>14 MR. JAMES: Is it your recollection</p> <p>15 that's in or around the time of the closing of the</p> <p>16 Jay Peak --</p> <p>17 THE WITNESS: I believe it was five days</p> <p>18 before the closing.</p> <p>19 MR. JAMES: Okay. If you could follow</p> <p>20 me through this letter. This letter appears to be</p> <p>21 a letter from the attorneys for the sellers, and</p> <p>22 it's directed to a Mr. Joel Burstein at Raymond</p> <p>23 James.</p> <p>24 THE WITNESS: Uh-huh.</p> <p>25 MR. JAMES: Do you know Mr. Burstein?</p>	<p style="text-align: right;">Page 72</p> <p>1 THE WITNESS: I mean, I meant to say the</p> <p>2 professional relationship has always been</p> <p>3 maintained. And, you know, the fact that there</p> <p>4 was a marriage and then a divorce has not changed</p> <p>5 the professional relationship any.</p> <p>6 MR. JAMES: Okay. And Mr. Burstein</p> <p>7 still remains the point of contact --</p> <p>8 THE WITNESS: Yes, he does.</p> <p>9 MR. JAMES: -- at Raymond James?</p> <p>10 Okay. So following again, because I</p> <p>11 think we've established that this letter seems to</p> <p>12 be a letter by the attorney for the seller to Mr.</p> <p>13 Burstein at Raymond James in connection with the</p> <p>14 closing.</p> <p>15 If you go to paragraph number four --</p> <p>16 and actually, sorry, let me back up. You see</p> <p>17 where it says, Regarding, underneath the address</p> <p>18 of Mr. Burstein, it has account number 54040698,</p> <p>19 Jay Peak Hotel Suites, LP?</p> <p>20 THE WITNESS: Uh-huh.</p> <p>21 MR. JAMES: Do you recognize the name of</p> <p>22 that entity or that account number?</p> <p>23 THE WITNESS: I don't recognize the</p> <p>24 account number, but I certainly recognize the name</p> <p>25 of Jay Peak Hotel Suites, Limited Partnership.</p>
<p style="text-align: right;">Page 71</p> <p>1 THE WITNESS: I've met him I think</p> <p>2 twice.</p> <p>3 MR. JAMES: Okay. Well what's his</p> <p>4 function at Raymond James?</p> <p>5 THE WITNESS: He's one of their account</p> <p>6 managers.</p> <p>7 MR. JAMES: Okay. Is he the point of</p> <p>8 contact between Jay Peak and Raymond James?</p> <p>9 THE WITNESS: I believe he's the</p> <p>10 point of contact between Mr. Quiros and Raymond</p> <p>11 James.</p> <p>12 MR. JAMES: Okay. Do you know whether</p> <p>13 Mr. Burstein and Mr. Quiros has any relationship</p> <p>14 beyond their Raymond James account-related</p> <p>15 relationship?</p> <p>16 THE WITNESS: That's their principal</p> <p>17 relationship. Mr. Burstein was Mr. Quiros's</p> <p>18 son-in-law. Mr. Burstein was married to Mr.</p> <p>19 Quiros's daughter. They are divorced now. But Mr.</p> <p>20 Burstein still continues as the manager. And that</p> <p>21 personal relationship, I can -- I have observed</p> <p>22 has never changed or wavered because of the</p> <p>23 personal relationship.</p> <p>24 MR. JAMES: Okay. The professional</p> <p>25 relationship hasn't --</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. JAMES: Okay. Is that the limited</p> <p>2 partnership of the Tram Haus Lodge?</p> <p>3 THE WITNESS: Tram Haus Lodge, yes.</p> <p>4 MR. JAMES: Okay. Phase I that you --</p> <p>5 THE WITNESS: Correct.</p> <p>6 MR. JAMES: And so, basically, this</p> <p>7 seems to be, and not to repeat myself, but a</p> <p>8 letter by the attorneys for the seller to the</p> <p>9 Raymond James representative regarding the account</p> <p>10 in Raymond James for this Hotel Suites, Limited</p> <p>11 Partnership, Phase I?</p> <p>12 THE WITNESS: Uh-huh.</p> <p>13 MS. FUCHS-SINDLER: Oh, yes?</p> <p>14 THE WITNESS: Yes. I'm sorry. I was</p> <p>15 doing okay until now.</p> <p>16 MR. JAMES: Yeah, you're doing pretty</p> <p>17 good.</p> <p>18 If you go down now to paragraph number</p> <p>19 four, and do you see that? It says, "The funds</p> <p>20 currently in account number 54040698," which is</p> <p>21 the same account that's in the reference line</p> <p>22 above, it says, "Belong to the Jay Peak Hotel</p> <p>23 Suites, Limited Partnerships." It says, "These</p> <p>24 funds were invested by immigrant investors in this</p> <p>25 limited partnership and must be held and/or used</p>

<p style="text-align: right;">Page 74</p> <p>1 strictly in accordance with the limited</p> <p>2 partnership agreement." And then it says, "A copy</p> <p>3 of which I understand has already been provided to</p> <p>4 you."</p> <p>5 Do you see that?</p> <p>6 THE WITNESS: Yes.</p> <p>7 MR. JAMES: Okay.</p> <p>8 And then lastly, in that paragraph, it</p> <p>9 says, "You confirm that these funds will not be</p> <p>10 used in any manner, including as collateral or a</p> <p>11 guarantee to finance the purchaser of the Jay Peak</p> <p>12 Resort."</p> <p>13 Do you see that?</p> <p>14 THE WITNESS: I do.</p> <p>15 MR. JAMES: Okay. So do you understand</p> <p>16 that to mean that the investor funds that were</p> <p>17 transferred from People's Bank to Raymond James</p> <p>18 for LP I in connection with this closing could not</p> <p>19 be used in any manner as collateral or guarantee</p> <p>20 for Mr. Quiros's purchase of Jay Peak?</p> <p>21 THE WITNESS: I do.</p> <p>22 MR. JAMES: Okay. So earlier when we</p> <p>23 talked about whether or not you thought it was</p> <p>24 permissible for Mr. Quiros to use investor funds</p> <p>25 as collateral for loan --</p>	<p style="text-align: right;">Page 76</p> <p>1 THE WITNESS: Yes. And the fact that I</p> <p>2 was copied, absolutely. I'm sure I was copied,</p> <p>3 and I probably read this and it didn't impact me</p> <p>4 one way or the other, because I didn't believe and</p> <p>5 still don't believe that we used those funds</p> <p>6 inappropriately.</p> <p>7 MR. JAMES: And any sense why the</p> <p>8 attorney would see the need to make that I guess</p> <p>9 representation in this letter so close to the</p> <p>10 closing, I think you said three days before or</p> <p>11 five days before, any sense why he would --</p> <p>12 THE WITNESS: She.</p> <p>13 MR. JAMES: She. Sorry.</p> <p>14 THE WITNESS: Her name is Alwynn</p> <p>15 Gillett, by the way.</p> <p>16 MR. JAMES: I apologize.</p> <p>17 THE WITNESS: That's all right.</p> <p>18 MR. JAMES: It must be Canadian.</p> <p>19 Any sense why she found a need to</p> <p>20 include that disclaimer in this letter five days</p> <p>21 before the closing?</p> <p>22 THE WITNESS: Brian, the closing</p> <p>23 documents for this transaction were a stack of</p> <p>24 papers this high. And this firm is a firm we know</p> <p>25 well. They are extremely highly regarded. They</p>
<p style="text-align: right;">Page 75</p> <p>1 THE WITNESS: Can you repeat that?</p> <p>2 MR. JAMES: Okay. Earlier when we asked</p> <p>3 you about whether you thought it was</p> <p>4 permissible --</p> <p>5 THE WITNESS: Yes.</p> <p>6 MR. JAMES: -- for Mr. Quiros to use the</p> <p>7 investor funds as collateral for a loan for which</p> <p>8 the proceeds would be used to fund the closing,</p> <p>9 you said you thought so, but I think I also asked</p> <p>10 you if you had heard anyone say that, and you said</p> <p>11 you don't recall.</p> <p>12 Having seen this, do you have a</p> <p>13 recollection as to whether it was specifically</p> <p>14 communicated that the monies could not be used as</p> <p>15 collateral by Mr. Quiros?</p> <p>16 THE WITNESS: I don't recall any</p> <p>17 conversations about that.</p> <p>18 MR. JAMES: Okay. So even after seeing</p> <p>19 this letter --</p> <p>20 THE WITNESS: Well, I mean, I was in</p> <p>21 Vancouver when this was sent, and I was preparing</p> <p>22 for an event. And the closing was being</p> <p>23 facilitated by Ary, Bill Kelly, the Spiegel Sohmer</p> <p>24 people, and the Mont Saint-Sauveur people.</p> <p>25 MR. JAMES: Okay. And then they --</p>	<p style="text-align: right;">Page 77</p> <p>1 are incredibly thorough. And as I said, the</p> <p>2 closing documents for this thing were enormous.</p> <p>3 This was one of them. This is one of them.</p> <p>4 MR. JAMES: Going to paragraph number</p> <p>5 five, same exhibit, No. 94. And it says,</p> <p>6 "Similarly, any funds received from investors in</p> <p>7 connection with Phase II of the Jay Peak EB-5</p> <p>8 project are subject to restrictions as to their</p> <p>9 use and investment."</p> <p>10 Do you see that?</p> <p>11 THE WITNESS: Yes.</p> <p>12 MR. JAMES: I know we haven't gotten to</p> <p>13 the next project in the sequence of projects at</p> <p>14 Jay Peak, but is Phase II the second project we've</p> <p>15 been talking about?</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. JAMES: So if you -- sticking with</p> <p>18 paragraph number five, if you go down to the last</p> <p>19 sentence in that same paragraph number five, it</p> <p>20 says, "Once again, these funds may not be used in</p> <p>21 any manner, including as collateral or a guarantee</p> <p>22 to fund the purchase the Jay Peak Resort."</p> <p>23 Do you see that statement?</p> <p>24 THE WITNESS: I do.</p> <p>25 MR. JAMES: Okay.</p>

<p style="text-align: right;">Page 78</p> <p>1 So based on this letter, it seems that</p> <p>2 the attorney for the seller is ensuring that</p> <p>3 Raymond James understands, as well as the people</p> <p>4 that are cc'd, that the investor funds for LP I</p> <p>5 and LP II cannot be used as collateral or</p> <p>6 guarantee or to fund the purchase of Jay Peak?</p> <p>7 THE WITNESS: Correct.</p> <p>8 MR. JAMES: And, again, you don't have</p> <p>9 any independent recollection of having those</p> <p>10 discussions with anyone, whether Mr. Quiros or the</p> <p>11 attorney or the sellers?</p> <p>12 THE WITNESS: I do not.</p> <p>13 Now, at some point, are we going to</p> <p>14 discuss Phase I?</p> <p>15 MR. JAMES: Yes.</p> <p>16 THE WITNESS: Okay. Because between the</p> <p>17 time of the acquisition and the time of the</p> <p>18 closing, there was a lot of work going on. So</p> <p>19 I -- you know, it wasn't -- we weren't waiting</p> <p>20 until the closing to begin our work. And I</p> <p>21 just -- you know, we started talking about the</p> <p>22 projects, and then we jumped into the other</p> <p>23 things, and I'm hopeful that we'll have an</p> <p>24 opportunity to discuss the project.</p> <p>25 MR. JAMES: Definitely. No. Definitely.</p>	<p style="text-align: right;">Page 80</p> <p>1 limited partnership Phase I, they send their money</p> <p>2 to People's Bank?</p> <p>3 THE WITNESS: Correct.</p> <p>4 MR. JAMES: Okay.</p> <p>5 And does that go into a trust account of</p> <p>6 some sort?</p> <p>7 THE WITNESS: Yes.</p> <p>8 MR. JAMES: Okay.</p> <p>9 And what happens with the money that's</p> <p>10 now in the trust account? Is there like a trigger</p> <p>11 or an event that needs to occur?</p> <p>12 THE WITNESS: As soon as the</p> <p>13 subscription agreement and the escrow agreement</p> <p>14 are executed, we would transfer the funds to</p> <p>15 Raymond James to then be put into Treasury bills.</p> <p>16 MR. JAMES: Okay.</p> <p>17 MS. LAMA: And for the Phase I escrow</p> <p>18 account, was a 529 approval needed --</p> <p>19 THE WITNESS: No.</p> <p>20 MS. LAMA: Okay.</p> <p>21 THE WITNESS: I'm sorry. I did what I</p> <p>22 shouldn't have done. I'm sorry. Continue.</p> <p>23 MS. LAMA: Okay. Can you elaborate on</p> <p>24 that?</p> <p>25 THE WITNESS: Once the -- according to</p>
<p style="text-align: right;">Page 79</p> <p>1 THE WITNESS: Okay.</p> <p>2 BY MS. FUCHS-SINDLER:</p> <p>3 Q Just so the record's clear, when</p> <p>4 we've been saying MSSI, we're referring to the</p> <p>5 Mont --</p> <p>6 A Mont Saint-Sauveur International.</p> <p>7 Q Yes. I just want to make sure you</p> <p>8 understood that.</p> <p>9 A I do understand.</p> <p>10 Q Okay. It's just easier to say MSSI.</p> <p>11 A We always call it MSSI, too, but if you</p> <p>12 want to show that you can say the French, you say</p> <p>13 the Sauveur.</p> <p>14 MR. JAMES: So, Mr. Stenger, just</p> <p>15 sticking with the Phase I. So as far as the</p> <p>16 process, and I guess this will take us into the</p> <p>17 project itself as far as what was constructed, but</p> <p>18 so you have the investors that have decided to</p> <p>19 subscribe to this Phase I limited partnership. So</p> <p>20 each of the investors, they invest five hundred</p> <p>21 thousand dollars?</p> <p>22 THE WITNESS: Correct.</p> <p>23 MR. JAMES: Okay.</p> <p>24 And once that investor decides, I want</p> <p>25 to invest five hundred thousand dollars in this</p>	<p style="text-align: right;">Page 81</p> <p>1 our documents, once the escrow agreement and the</p> <p>2 subscription agreement were completed, the funds</p> <p>3 were available to the project.</p> <p>4 MS. LAMA: And that applies to Phase I?</p> <p>5 THE WITNESS: To my knowledge, it</p> <p>6 applies to all the phases of our projects.</p> <p>7 MR. JAMES: Is there a possibility that</p> <p>8 for Phase I could've been different than the</p> <p>9 subsequent projects?</p> <p>10 THE WITNESS: They're might've been --</p> <p>11 there might've been a modest variation. But</p> <p>12 having access to the capital at the time of the</p> <p>13 signing of those two was pretty much what we did,</p> <p>14 and it was in the documents. I can explain the</p> <p>15 reason for that. May I?</p> <p>16 MR. JAMES: Yes. Go ahead.</p> <p>17 THE WITNESS: If we waited until the 526</p> <p>18 was approved, given the performance of the USCIS,</p> <p>19 we would never have completed a project, and it</p> <p>20 would've been absolute chaos. And I would be</p> <p>21 happy to elaborate on what I mean by that, but I</p> <p>22 think you may know.</p> <p>23 If we did not have immediate access to</p> <p>24 the capital -- now, we did have an understanding</p> <p>25 with the investor, that if they were denied, their</p>

<p style="text-align: right;">Page 82</p> <p>1 funds would be returned. So it was not about 2 take their money and do something with it, and 3 they were not protected. We -- and, fortunately, 4 we've never had to return funds because of a 5 denial. 6 But if we didn't have the ability to 7 take the capital that was invested and immediately 8 put it to work, we never would've been able to 9 build or complete the projects. So that's the 10 reason why it was so important for us. 11 Recognize -- and I was noticing this 12 yesterday and today in driving around here -- 13 construction in Vermont is a six-month experience. 14 If you miss the window of opportunity, you're 15 dead. Here, you want to build? Go build. You 16 might have a hurricane once or twice a year that 17 you have to worry about. But in Vermont, we shut 18 down almost most construction in mid to late 19 November, and we get going again in the spring. 20 So having access to capital when it's 21 committed to do the things that we know we need to 22 do is critically important. So that's the reason. 23 And thank goodness that that is the way our 24 program was set up, because it gave us flexibility 25 and a nimble financial capacity.</p>	<p style="text-align: right;">Page 84</p> <p>1 agreement -- or into the escrow account, those 2 are, yes. Well, there were -- there were a couple 3 of accounts. There was the account for the 4 project, and then there was the administrative 5 account. 6 MR. JAMES: Okay. Tell me the 7 difference. 8 THE WITNESS: Well, when an investor 9 invests in the program, they put five hundred 10 thousand dollars into the project that they're 11 investing in. And then there was another payment 12 required of fifty thousand that went into the 13 administration account to pay for things such as 14 marketing costs, legal fees, accounting fees, 15 economists fees, document preparation, travel 16 expenses, and sometimes fees paid to third parties 17 that helped us find investors. 18 Sometimes at that early stage, we 19 actually offered attorneys who referred us clients 20 a referral fee. That has since stopped because 21 the world of regulation has changed, and we 22 don't do that anymore. But at the time in 2006, 23 7, 8, in the world of EB-5 development, that did 24 go on. 25 We have a very detailed list of the</p>
<p style="text-align: right;">Page 83</p> <p>1 MR. JAMES: So whatever the events are 2 that needs to occur before Jay Peak has access to 3 those investor funds, whether it's receiving a 4 signed subscription agreement and escrow agreement 5 or approval of the 526, whatever those events are, 6 those are laid out in the offering documents? 7 THE WITNESS: They're laid out in the 8 offering document and the subscription agreement 9 and the escrow agreement. And I do believe now we 10 have what we call a rescission period, where if 11 the investor wants to rethink their involvement 12 within thirty days, they can do so. But we've 13 never had an investor do that either. 14 But in the initial stages, it was, you 15 invested, escrow agreement, subscription 16 agreement. That was what was required. And then 17 the funds were transferred to Raymond James and 18 put into Treasury bills. 19 MR. JAMES: Okay. 20 So all the funds that come into that 21 People's Bank trust account, whether we're talking 22 about Phase I, Phase II, or subsequent projects, 23 the money that comes in, all of that is investor 24 funds? 25 THE WITNESS: Into the escrow</p>	<p style="text-align: right;">Page 85</p> <p>1 administration fees paid, who got what. And 2 sometimes the fee was reduced if there was a 3 reason for it. 4 MR. JAMES: And that'd be the 5 administration fee? 6 THE WITNESS: Yes. It might've been 7 fifty. It might've been thirty-five. It might've 8 been thirty. It depends -- there were any number 9 of reasons why that might've been the case. 10 MR. JAMES: Okay. 11 You say a portion of that administration 12 fee, in addition to the marketing and things of 13 that nature, would also go to the third party that 14 helped bring this investor to Jay Peak? 15 THE WITNESS: Many times, yes. 16 MR. JAMES: Okay. 17 Did you use a specific entity or is it a 18 series of entity, you used different third parties 19 for that purpose? 20 THE WITNESS: For the first few 21 projects, we used a firm called Rapid USA. And 22 they were a promotional -- they were -- they 23 helped us promote the projects, helped us find 24 investors. And the principal of that organization 25 played a pretty important role in developing some</p>

<p style="text-align: right;">Page 86</p> <p>1 of the business plans and the offering documents.</p> <p>2 MR. JAMES: Okay. And that person?</p> <p>3 THE WITNESS: His name is Douglas Hulme,</p> <p>4 H-U-L-M-E.</p> <p>5 MR. JAMES: So going back to the trust</p> <p>6 account at People's Bank. So putting aside the</p> <p>7 administration account where those fifty thousand</p> <p>8 dollars fees go into, the actual five hundred</p> <p>9 thousand, that's the actual investment principal,</p> <p>10 that goes into its ow escrow account?</p> <p>11 THE WITNESS: Correct.</p> <p>12 MR. JAMES: Okay.</p> <p>13 So all the monies that come into that</p> <p>14 account I assume is coming in in five hundred</p> <p>15 thousand dollar increments?</p> <p>16 THE WITNESS: Correct.</p> <p>17 MR. JAMES: I'm assuming it's coming in</p> <p>18 from investors in the particular projects?</p> <p>19 THE WITNESS: Correct.</p> <p>20 MR. JAMES: Okay.</p> <p>21 What happens if you end up receiving</p> <p>22 more investors than what the project allows for?</p> <p>23 What do you do with that portion of the money?</p> <p>24 THE WITNESS: Well, when we get to</p> <p>25 the -- I'm sorry. When we get to the point where</p>	<p style="text-align: right;">Page 88</p> <p>1 A From the Tram Haus Lodge, which was our</p> <p>2 first project, to the Stateside project, which was</p> <p>3 our most recent, this is about a mile and a half</p> <p>4 drive. And we built with -- each project had its</p> <p>5 own funds. And when this one was completed --</p> <p>6 Q This one referring to?</p> <p>7 A I'm sorry. Tram Haus Lodge was</p> <p>8 completed, we had another project that we could</p> <p>9 share with people, and they participated in that.</p> <p>10 And then when we were finished with this</p> <p>11 one, the master plan project was for this site to</p> <p>12 be developed. And then when the next project --</p> <p>13 this one was done, we went to -- so the master</p> <p>14 plan -- and from a construction standpoint, you</p> <p>15 would never go from far west to far east. You</p> <p>16 would want to go logically in progression, so that</p> <p>17 your disruption and your earth disturbance is</p> <p>18 controlled and minimized.</p> <p>19 Because one of the things that, perhaps,</p> <p>20 we'll talk about is the cost of doing these things</p> <p>21 and the lessons learned in Phase I, in Phase II</p> <p>22 that we benefited in the subsequent phases. And a</p> <p>23 lot of it has to do with environmental-related</p> <p>24 issues.</p> <p>25 MR. JAMES: So as to the Tram Haus Lodge</p>
<p style="text-align: right;">Page 87</p> <p>1 one project was nearing completion in terms of the</p> <p>2 full subscription, we would have -- and as it</p> <p>3 worked out, we had another project that they could</p> <p>4 participate in. There were thirty-five investors</p> <p>5 in Phase I. As we got close to the completion of</p> <p>6 the first subscription, we also had the second</p> <p>7 project ready to go. And then a third and then a</p> <p>8 fourth.</p> <p>9 Because I mentioned earlier the master</p> <p>10 plan. I should've brought a map of it. It's like</p> <p>11 a development pod. And we started on the Tram</p> <p>12 Haus Lodge, which was, you know -- I know you</p> <p>13 can't see this, but -- we had multiple projects.</p> <p>14 And we started with the Tram Haus Lodge, which was</p> <p>15 in the western edge of the resort.</p> <p>16 We then went to the Hotel Jay complex</p> <p>17 with its water park, ice arena, golf clubhouse,</p> <p>18 conference center. Then we went to Golf and</p> <p>19 Mountain Suites, Lodge and Townhouse project. And</p> <p>20 then most recently the Stateside hotel.</p> <p>21 Now, from here to here is about one and</p> <p>22 a half miles.</p> <p>23 BY MS. FUCHS-SINDLER:</p> <p>24 Q And just so the record's clear, when you</p> <p>25 say from here to here?</p>	<p style="text-align: right;">Page 89</p> <p>1 Phase I, so the money comes in in five hundred</p> <p>2 thousand increments from each investor into that</p> <p>3 trust account at People's Bank. Is it practice to</p> <p>4 then, once you have those documents, you have a</p> <p>5 subscription agreement, escrow agreement signed</p> <p>6 and executed by the investor, is that money then</p> <p>7 transferred to Raymond James, or does it then get</p> <p>8 transferred to another account at People's Bank</p> <p>9 for the limited partnership for LP I?</p> <p>10 THE WITNESS: I believe that the funds</p> <p>11 go into People's United. Now, at the time we</p> <p>12 started, it was called Chittenden, by the way.</p> <p>13 Chittenden Bank was bought by People's United, a</p> <p>14 Connecticut-based company.</p> <p>15 So the funds would go into the project,</p> <p>16 and then I believe transferred to Raymond James</p> <p>17 directly. I don't think there was another account</p> <p>18 that it went into.</p> <p>19 MR. JAMES: Okay.</p> <p>20 So it would come into the trust account,</p> <p>21 and from the trust account, it goes to the LP I</p> <p>22 account at People's Bank, and then from there, to</p> <p>23 the LP I account at Raymond James? Was that the</p> <p>24 sequence?</p> <p>25 THE WITNESS: I believe so, but I have</p>

<p style="text-align: right;">Page 90</p> <p>1 to tell you that, you know, someone like Heather 2 Whipkey could've been more precise, you know, or 3 our accountant CFO. 4 The money came into the escrow account 5 at People's and was, subsequently, transferred to 6 Raymond James. Now, I don't think there was 7 another step in there. But if you showed me a 8 document that said there was, I mean, it wouldn't 9 be the -- it wouldn't shatter me to find that out. 10 But the bottom line is, it came into 11 People's. The subscription agreement was signed. 12 The escrow agreement was signed properly. The 13 funds were then some short time thereafter 14 transferred into Raymond James and then put into 15 Treasury bills. 16 MR. JAMES: Okay. 17 MS. LAMA: From the transfers from the 18 escrow account for Phase I, did you authorize the 19 transfers from the escrow -- out of the escrow 20 account? 21 THE WITNESS: Oh, I think I authorized 22 everything that went from each account. And then 23 my accounting team would facilitate that. You 24 know, they would come to me and say, we're going 25 to transfer some funds to Raymond James, and I'd</p>	<p style="text-align: right;">Page 92</p> <p>1 accounts, it would come into trust account at 2 People's Bank, it may or may not stop at a 3 corresponding account at People's Bank for each 4 LP, but, ultimately, it would end up at the 5 Raymond James account for that limited 6 partnership? 7 THE WITNESS: That's correct. 8 MR. JAMES: Okay. 9 So, essentially, all of the limited 10 partnership accounts at Raymond James, what is in 11 those accounts, if there's anything, is investor 12 funds? 13 THE WITNESS: Correct. 14 MR. JAMES: Okay. 15 And as you mentioned, for each of the 16 limited partnerships, you authorized -- and, 17 obviously, your accounting team brings you the 18 authorization, but you authorized the monies going 19 through that flow of chain from trust account 20 People's and ending up in Raymond James limited 21 partnership? 22 THE WITNESS: That's right. 23 MS. LAMA: Did the limited partnerships 24 have escrow agreements with People's United Bank, 25 master escrow agreements?</p>
<p style="text-align: right;">Page 91</p> <p>1 sign it, because that's what -- I mean, that was 2 the protocol. 3 And, you know, I probably signed two 4 hundred and fifty of these, maybe five hundred. 5 Many, many transfers. Because that was the 6 procedure; get it out of this account and get it 7 into the secure Raymond James Treasury bill 8 accounts. 9 MR. JAMES: And the reason for that was 10 the interest and the security? 11 THE WITNESS: Security, banking, fire 12 power. Chittenden and People's United, a small 13 regional bank. They have an appetite for creative 14 commercial banking, like this, really. Now, I was 15 referring to a small level of risk. 16 People's United is essentially a savings 17 bank in Connecticut with almost no appetite for 18 commercial financing, unfortunately. Their prior 19 President, Paul Perrault, who left People's 20 United -- or left Chittenden about 2008 did have 21 an appetite for commercial financing. But after 22 2008, no bank in Vermont would do any 23 significant -- 24 MR. JAMES: And then that was the 25 practice for all of the limited partnership</p>	<p style="text-align: right;">Page 93</p> <p>1 THE WITNESS: Probably. I apologize for 2 not being more precise, but I -- yeah, I -- yeah, 3 I think -- yeah, there is. There's an overarching 4 agreement between the bank and us. 5 And when we opened an escrow account at 6 the bank, that was set up, and I signed the 7 relationship account creation. I believe our 8 attorney, Mark Scribner, facilitated the document 9 preparation for the escrow account. And he would 10 set up the account with the bank, and I would go 11 and meet the folks at the bank and sign the 12 documents, and we were off and going. 13 MS. LAMA: Okay. 14 And to your understanding, is there one 15 master agreement that covers all of the 16 partnerships -- 17 THE WITNESS: I think each -- I'm sorry. 18 MS. LAMA: -- or is there a different 19 escrow agreement -- master escrow agreement 20 between each of the partnerships and the bank? 21 THE WITNESS: I believe there are 22 individual escrow agreements with each project. I 23 believe they reflect one another -- they're very, 24 very similar, but I believe they are distinctive. 25 And I recall going to the bank and signing the</p>

<p style="text-align: right;">Page 94</p> <p>1 escrow agreement startup for each project that</p> <p>2 we've done.</p> <p>3 MS. LAMA: And other than yourself, did</p> <p>4 anyone sign those agreements?</p> <p>5 THE WITNESS: I don't believe so.</p> <p>6 BY MS. FUCHS-SINDLER:</p> <p>7 Q You had made a comment before that you</p> <p>8 heard the term "margin loan" thrown about. Can</p> <p>9 you --</p> <p>10 A Well, I heard it from you.</p> <p>11 Q Oh, but aside from us, we'd asked you</p> <p>12 about margin loans. Did you ever hear the term</p> <p>13 "margin loan" in connection with anything going on</p> <p>14 with different accounts at Raymond James?</p> <p>15 A I know that Mr. Quiros had banking</p> <p>16 relationships with Raymond James that were</p> <p>17 multi-faceted. And the term "margin account,"</p> <p>18 I've heard the term. I don't have direct</p> <p>19 knowledge of how that played a role in this or</p> <p>20 that. I don't -- I was not involved in the</p> <p>21 day-to-day banking relationships with Raymond</p> <p>22 James. I know he could answer that question for</p> <p>23 you.</p> <p>24 Q But besides just hearing the generic</p> <p>25 term "margin loan," have you ever heard of the</p>	<p style="text-align: right;">Page 96</p> <p>1 A No. We went to the bathroom.</p> <p>2 Q Okay.</p> <p>3 (SEC Exhibit No. 95 was marked</p> <p>4 for identification.)</p> <p>5 BY MS. FUCHS-SINDLER:</p> <p>6 Q While we were on the break, the court</p> <p>7 reporter marked the next exhibit, which is Exhibit</p> <p>8 No. 95, which I'm handing to you and a copy to</p> <p>9 your attorney now.</p> <p>10 This is a copy of a document that</p> <p>11 appears to consist of an email string. At the</p> <p>12 top, you'll see the date March 9th, 2009, and then</p> <p>13 from Mike Dupont to Douglas Hulme. Then if you go</p> <p>14 a little farther in, you'll see from Mike Dupont</p> <p>15 an email, dated January 27th, 2009 to Bill</p> <p>16 Stenger. Subject: Raymond James Account, with</p> <p>17 Importance: High.</p> <p>18 Can you take a look at this document and</p> <p>19 tell me what it is.</p> <p>20 A I've read it. I'm sorry. Yeah, I've</p> <p>21 read it.</p> <p>22 Q Okay. Can you tell us what this</p> <p>23 document is?</p> <p>24 A Well, it appears to be an email from</p> <p>25 Michael Dupont to Douglas Hulme.</p>
<p style="text-align: right;">Page 95</p> <p>1 term "margin loan" in connection with any Jay</p> <p>2 Peak-related account at Raymond James?</p> <p>3 A I don't believe so.</p> <p>4 Q And so is it correct that you have no</p> <p>5 understanding as to whether or not there ever was</p> <p>6 a margin loan in any Jay Peak-related account?</p> <p>7 A I do not know of any margin loan</p> <p>8 situations with Jay Peak. I know that that is one</p> <p>9 of the things that the Raymond James banking</p> <p>10 institution might offer, but I don't know any role</p> <p>11 that it played with our operations.</p> <p>12 MR. GORDON: We've been going for a</p> <p>13 little over two hours. Can we take a five-minute</p> <p>14 break?</p> <p>15 MS. FUCHS-SINDLER: Sure.</p> <p>16 We're off the record.</p> <p>17 (A brief recess was taken.)</p> <p>18 MS. FUCHS-SINDLER: We're back on the</p> <p>19 record after a short break.</p> <p>20 BY MS. FUCHS-SINDLER:</p> <p>21 Q During that time, we didn't have any</p> <p>22 substantive conversations; is that correct?</p> <p>23 A Pardon me?</p> <p>24 Q We did not have any substantive</p> <p>25 conversations?</p>	<p style="text-align: right;">Page 97</p> <p>1 Q Okay. And how about the body of it?</p> <p>2 A The body of it was an email, dated</p> <p>3 January 27th, '09 to me from Michael Dupont.</p> <p>4 Q Okay.</p> <p>5 If you look initially, he's saying that</p> <p>6 he wants to follow-up on a conversation of that</p> <p>7 morning. It says, "It made clear what has</p> <p>8 occurred and what needs to be done from his</p> <p>9 perspective."</p> <p>10 Can you tell us about that conversation?</p> <p>11 A I have no recollection of that</p> <p>12 conversation. Mike was our CFO for about a year.</p> <p>13 And I don't -- I mean, I -- I'm seeing this. I'm</p> <p>14 trying to recall the timeframe when he was with</p> <p>15 us. And he -- I'm looking at the content of the</p> <p>16 email, and he's asking for information.</p> <p>17 The conversation in the morning might've</p> <p>18 been, gee, Bill, there's a couple of things I'm</p> <p>19 concerned about, I'm going to follow-up with you.</p> <p>20 I don't -- you know, this was, what, five years</p> <p>21 ago.</p> <p>22 Q Well, reading this email, does this jog</p> <p>23 your memory as to the issues that were going on at</p> <p>24 the time?</p> <p>25 A The first year or year and a half of our</p>

<p style="text-align: right;">Page 98</p> <p>1 inception, we were going at a very high rate of 2 speed operationally and developmentally. And Mike 3 was attempting to help us get organized as CFO in 4 the area of the ski area and its operation and in 5 the area of construction and development for Phase 6 I and Phase II. 7 And he was expressing, according to this 8 email, concern that he was not getting the 9 statements in a timely manner, in his judgment. 10 And -- and then he goes on to point out, if 11 certain things are -- were done, that they need to 12 be done. He's a CPA, and he was expressing in 13 this email, you know, his concerns about certain 14 things. If they were, indeed, one way, they 15 needed to be done a different way. 16 Q First of all, how did he get the Raymond 17 James statements? Was it through you? 18 A Oh, they would be faxed to Jay Peak. 19 The fax machine was ten feet from his office. 20 Q Did it have to come from you to him? 21 A He would -- Ary would tell me that he's 22 going send up the statements. I'd go to the fax 23 machine, pick them up, and give them to Mike, 24 because we didn't want just anybody having access 25 to banking statements.</p>	<p style="text-align: right;">Page 100</p> <p>1 THE WITNESS: Yeah. Yeah. 2 BY MS. FUCHS-SINDLER: 3 Q And do you see where the paragraph that 4 says, Second, do you see where he says, "There 5 appears to be a shortfall compared to the summary 6 statement supplied by Raymond James?" 7 A I see where that's written, yes. 8 Q Could you explain that, what that's 9 about? 10 A I don't -- I don't know what that's 11 about. 12 Q Did you talk with anyone at Raymond 13 James about what the shortfall was about? 14 A No. I don't recall the conversation of 15 that day, and I don't recall any aspect of what 16 this email refers to. I suspect that I would've 17 contacted Ary to ask him to follow-up. 18 Q That was my next question. 19 A But I don't know that. I mean, this is 20 January 27th of '09. And it was five years ago. 21 And I don't know, but I know that we -- I believe 22 we probably satisfied Mike's concerns, because 23 he -- you know, I don't -- I'm pretty sure that he 24 was satisfied. 25 Q Why are you sure?</p>
<p style="text-align: right;">Page 99</p> <p>1 Our offices at the time, there was 2 Marketing and Sales and Accounting and General 3 Management all in one little bullpen. 4 Q Did you receive the Raymond James 5 statements? 6 A Sure. I'd pick them up, and I'd give 7 them to Mike. 8 Q Did you review them? 9 A I looked at them briefly. I didn't 10 dwell on them, because that was his job. 11 Q From the time Mr. Dupont was with Jay 12 Peak to the present, do you review Jay Peak 13 statements? 14 A I review Jay Peak statements. 15 Q I'm sorry. Not Jay Peak. I'm sorry. I 16 meant Raymond James statements. 17 A When they come in, I'll look at them 18 briefly, yeah. And then I'll give them to George 19 Gulisano and Heather Whipkey because they're 20 charged with reconciling statements. 21 MS. LAMA: And when you receive them, 22 how do you get them? 23 THE WITNESS: From -- by fax. 24 MS. LAMA: So to this day, still by 25 fax?</p>	<p style="text-align: right;">Page 101</p> <p>1 A Well, because if anything persisted that 2 he wasn't satisfied with, he would've let me know. 3 And I don't recall anything lingering after this. 4 MR. JAMES: Well, do you recall the 5 issues that he's raising in Exhibit No. 95? 6 THE WITNESS: I do not recall the 7 specifics of these particular situations. 8 MR. JAMES: Let's take them one by one. 9 So if you go to the first paragraph where it 10 begins with first, do you see that? 11 THE WITNESS: Uh-huh. 12 MR. JAMES: He says, "Since August," -- 13 and this is Mr. Dupont speaking to you based on 14 this email -- he says, "Since August, I have been 15 requesting repeatedly Raymond James statements for 16 Hotel I and Hotel II." 17 Do you see that? 18 THE WITNESS: Uh-huh. 19 MR. JAMES: Any recollection -- and just 20 to help us with just timing, it says, "Since 21 August," would be August of 2008? 22 THE WITNESS: Uh-huh. 23 MR. JAMES: Sir, you have to say yes or 24 no. 25 THE WITNESS: I'm sorry. Yes. Yes.</p>

<p style="text-align: right;">Page 102</p> <p>1 MR. JAMES: And the closing on the</p> <p>2 purchase by Q Resorts was June of 2008?</p> <p>3 THE WITNESS: 2008.</p> <p>4 MR. JAMES: Okay.</p> <p>5 So he's been asking for the statements</p> <p>6 since August, about two months after the closing,</p> <p>7 according to what he's saying?</p> <p>8 THE WITNESS: Yes. Yes. Yes.</p> <p>9 MR. JAMES: So you don't have a</p> <p>10 recollection of him asking for statements, he</p> <p>11 says, since August, and this email's in January?</p> <p>12 So we have four to five months of him asking for</p> <p>13 statements. No recollection of that being an</p> <p>14 issue? He was --</p> <p>15 THE WITNESS: You know, we were -- no, I</p> <p>16 don't. We were in the midst of construction,</p> <p>17 operation of the ski season, and we were building</p> <p>18 the hotel, in construction, in the middle of the</p> <p>19 winter, enclosed. And I remember Mike asking for</p> <p>20 the statements, but he was also involved in all</p> <p>21 the other aspects of the operation, and he didn't</p> <p>22 come to me daily saying, where are the statements,</p> <p>23 where are the statements, never, never.</p> <p>24 And, you know, this particular email,</p> <p>25 obviously, it appears to be of real concern to</p>	<p style="text-align: right;">Page 104</p> <p>1 reason.</p> <p>2 MR. JAMES: Okay.</p> <p>3 THE WITNESS: And Joel was simply</p> <p>4 respecting that line of reporting.</p> <p>5 MR. JAMES: Okay.</p> <p>6 So that sounds like something Mr.</p> <p>7 Burstein would say to Mr. Dupont based on --</p> <p>8 THE WITNESS: Sure.</p> <p>9 MR. JAMES: Okay.</p> <p>10 So if you go on to number -- the second</p> <p>11 paragraph, do you see that, where he talks about</p> <p>12 the shortfall compared to the summary statement</p> <p>13 supplied by Raymond James. Any recollection of</p> <p>14 receiving by -- I'm assuming it would come through</p> <p>15 that same fax machine, summary statements instead</p> <p>16 of actual monthly statements?</p> <p>17 THE WITNESS: I do not recall. I don't</p> <p>18 recall, Brian.</p> <p>19 MR. JAMES: And where he talks about the</p> <p>20 shortfall, any separate conversations about the</p> <p>21 balances in these accounts not being what he would</p> <p>22 expect them to be?</p> <p>23 THE WITNESS: I don't recall any</p> <p>24 conversations with Mike about that.</p> <p>25 MR. JAMES: What about conversations</p>
<p style="text-align: right;">Page 103</p> <p>1 him. I think I shared this with Ary, and I think</p> <p>2 he addressed it.</p> <p>3 MR. JAMES: Sticking with that first</p> <p>4 paragraph, do you see where he goes on to say that</p> <p>5 you told him that -- sorry, he said that he</p> <p>6 contacted Mr. Burstein? I think we saw that that</p> <p>7 was the person at Raymond James.</p> <p>8 THE WITNESS: Uh-huh.</p> <p>9 MR. JAMES: And that Mr. Burstein told</p> <p>10 him that he could not give the information based</p> <p>11 on what Mr. Quiros said and that he did not want</p> <p>12 that information released directly to Mr. Dupont.</p> <p>13 Do you remember --</p> <p>14 THE WITNESS: I -- I remember -- I'm</p> <p>15 sorry. Go ahead.</p> <p>16 MR. JAMES: Well, do you remember any</p> <p>17 instructions similar to that coming from Mr.</p> <p>18 Quiros or someone else as far as information being</p> <p>19 released directly to Mr. Dupont?</p> <p>20 THE WITNESS: Mr. Quiros's relationship</p> <p>21 with Raymond James is such that he is the point of</p> <p>22 contact, and neither Michael Dupont or George</p> <p>23 Gulisano, who's our current CFO -- the point of</p> <p>24 contact with Raymond James has always been Ariel,</p> <p>25 and for simplicity and authority, and that is the</p>	<p style="text-align: right;">Page 105</p> <p>1 with anyone else?</p> <p>2 THE WITNESS: Not with anyone else for</p> <p>3 that matter.</p> <p>4 MR. JAMES: If you go on same paragraph,</p> <p>5 which is in the second to last sentence, it says,</p> <p>6 "In addition, there appears to be ready access</p> <p>7 margin loans that I have no idea as to what</p> <p>8 they pertain to." And it says, "See diagram</p> <p>9 below."</p> <p>10 Do you see that sentence?</p> <p>11 THE WITNESS: I do.</p> <p>12 MR. JAMES: Earlier, I think Ms. Sinder</p> <p>13 had asked you about margin loans and whether you</p> <p>14 recall any conversation about margin loans, and</p> <p>15 you had said no, I believe.</p> <p>16 Any specific recollection now that</p> <p>17 you've seen this email as far as what Mr. Dupont</p> <p>18 is talking about as far as margin loans?</p> <p>19 THE WITNESS: Well, he's identifying a</p> <p>20 line item in the statement, and that is clearly,</p> <p>21 you know, stated there. No doubt. It's listed</p> <p>22 there.</p> <p>23 This looks like it was -- I have</p> <p>24 familiarity with the Raymond James statements and</p> <p>25 this does appear to be the typeface that they use,</p>

<p style="text-align: right;">Page 106</p> <p>1 so I suspect it was put together. So -- but I</p> <p>2 don't -- I don't know more.</p> <p>3 MR. JAMES: Okay.</p> <p>4 Other than this information looking to</p> <p>5 be, as far as you're concerned, what it's</p> <p>6 represented to be, any specific information as to</p> <p>7 numbers and what would've caused either the</p> <p>8 shortfall or the numbers that are attached to</p> <p>9 these margin loans, any information about those</p> <p>10 balances and what those loans are?</p> <p>11 THE WITNESS: No. Brian, I'm seeing</p> <p>12 this ten minutes ago. Out of the blue, I don't</p> <p>13 have recollection of those accounts from five</p> <p>14 years ago. I don't. I don't doubt -- I don't. I</p> <p>15 mean, I'd be wildly speculating if I said so.</p> <p>16 BY MS. FUCHS-SINDLER:</p> <p>17 Q When you -- with this email, did you</p> <p>18 ever speak to anyone, whether it was Mr. Quiros or</p> <p>19 anyone at Raymond James, to say, what are these</p> <p>20 ready access margin loans that Mike Dupont is</p> <p>21 talking about?</p> <p>22 A I'm pretty sure that what I probably did</p> <p>23 here was call Ary and say, Mike's got some</p> <p>24 concerns, can you answer these questions?</p> <p>25 Q You recall that conversation?</p>	<p style="text-align: right;">Page 108</p> <p>1 Ary had at his disposal for his financial</p> <p>2 involvements and businesses could have -- could've</p> <p>3 been a wide range of things. And, you know,</p> <p>4 obviously, I see the term and I see the line item.</p> <p>5 MR. JAMES: If you could flip to the</p> <p>6 next page.</p> <p>7 THE WITNESS: You know, it may appear</p> <p>8 like I -- I don't know the detail of the Raymond</p> <p>9 James accounts as precisely as you might think I</p> <p>10 should, because that's his world. I ran,</p> <p>11 developed, and built the resort, and operate it.</p> <p>12 From the inception of the purchase</p> <p>13 through our paying of all of our bills in creation</p> <p>14 of all this, the funding mechanisms were always</p> <p>15 controlled through Raymond James.</p> <p>16 And this, obviously, shows that Mike</p> <p>17 didn't feel like he had all the information he</p> <p>18 wanted. His message to me was -- according to</p> <p>19 this was, hey, get me -- get me information, get</p> <p>20 me detail here, and -- and -- and, you know,</p> <p>21 respond to my concerns. And I believe that I</p> <p>22 reached out to make sure that we got him the</p> <p>23 clarity that he was asking for.</p> <p>24 MR. JAMES: If you turn to the next page</p> <p>25 in the paragraph that begins with, third. And</p>
<p style="text-align: right;">Page 107</p> <p>1 A I don't recall that. But you're asking</p> <p>2 me what do you think I did, and I'm telling you</p> <p>3 based on, you know, seeing this for the first time</p> <p>4 and trying to recall that particular time.</p> <p>5 I would not have ignored Mike Dupont's</p> <p>6 concerns, because he's a valued member of my</p> <p>7 staff. And if he were writing these things, it</p> <p>8 would be because he's feeling like he doesn't have</p> <p>9 the whole picture and wants the whole picture or</p> <p>10 wants more of the picture.</p> <p>11 And I would've reached out, I'm sure, to</p> <p>12 Ary to try to get clarity. For two reasons; one,</p> <p>13 so that we know we're doing the right things, and,</p> <p>14 secondly, so Mike is comfortable.</p> <p>15 But I -- you know, I don't know what</p> <p>16 happened on Tuesday afternoon or Wednesday morning</p> <p>17 of the 28th or 29th. I believe, if my memory</p> <p>18 serves me correctly, we must've -- because Mike</p> <p>19 continued to his job, and I continued to do my</p> <p>20 job. And I think what the bottom line was, was</p> <p>21 let's make sure that when the statements are</p> <p>22 ready, that they get sent up to us.</p> <p>23 Q Did you learn anything else about these</p> <p>24 ready access margin loans?</p> <p>25 A No. No. I mean, the instruments that</p>	<p style="text-align: right;">Page 109</p> <p>1 I'll jump a little bit ahead just to --</p> <p>2 THE WITNESS: It begins with what,</p> <p>3 Brian?</p> <p>4 MR. JAMES: Third. It's in the first</p> <p>5 paragraph --</p> <p>6 THE WITNESS: I'm sorry. Yes. Yes.</p> <p>7 MR. JAMES: And if you go to I guess the</p> <p>8 second line, it's more so the third line, but</p> <p>9 begins on the second line, it says, "As expressed</p> <p>10 by you," this is Mr. Dupont referring to you, Mr.</p> <p>11 Stenger, "this credit line is not collateralized</p> <p>12 by EB-5 funds."</p> <p>13 Do you see that?</p> <p>14 THE WITNESS: Uh-huh.</p> <p>15 MR. JAMES: Okay.</p> <p>16 MS. FUCHS-SINDLER: You have to say yes.</p> <p>17 THE WITNESS: I'm sorry. Yes.</p> <p>18 MR. JAMES: And, obviously, in two point</p> <p>19 one, we talked earlier about whether or not the</p> <p>20 investor funds that are being held by Raymond</p> <p>21 James, whether they can be used as collateral for</p> <p>22 any loans or other credit being extended to Mr.</p> <p>23 Quiros and Q Resorts. Do you remember that</p> <p>24 discussion?</p> <p>25 THE WITNESS: I do.</p>

<p style="text-align: right;">Page 110</p> <p>1 MR. JAMES: Okay.</p> <p>2 So it sounds like what Mr. Dupont is</p> <p>3 saying is that you guys also had a discussion</p> <p>4 prior to him writing this email, and you told him</p> <p>5 that they were not -- the investor funds were not</p> <p>6 being used as collateral. Do you see that?</p> <p>7 THE WITNESS: I see it's stated here in</p> <p>8 his email.</p> <p>9 MR. JAMES: Okay.</p> <p>10 So it sounds like -- and I know earlier</p> <p>11 you said that the conversation in the morning</p> <p>12 could've been, oh, I just need to talk to you</p> <p>13 about some things, but it sounds like you guys had</p> <p>14 a more substantive conversation, at least prior to</p> <p>15 this, where you express to him that collateral --</p> <p>16 the funds were not being used as collateral.</p> <p>17 THE WITNESS: Brian, I can only react to</p> <p>18 what's written in this page, because I don't</p> <p>19 recall the conversation in person. I don't doubt</p> <p>20 that we had a conversation. I saw Mike every</p> <p>21 single day, and we talked frequently every day</p> <p>22 about a host of different things. And he may of</p> <p>23 asked a question about this. I see it's recorded</p> <p>24 here as he, apparently, remembers it, and I don't</p> <p>25 dispute that a bit.</p>	<p style="text-align: right;">Page 112</p> <p>1 as he wanted in as timely a way, and I'm sure I</p> <p>2 reached out to try to accelerate the timeliness</p> <p>3 and the preciseness of the data.</p> <p>4 MR. JAMES: Did Mr. Dupont resign at</p> <p>5 some point in time?</p> <p>6 THE WITNESS: He left. I'm not sure</p> <p>7 when he left. He left I think later that year. He</p> <p>8 was going through a divorce. He was a single guy.</p> <p>9 We're a real rural area. He told me how sorry he</p> <p>10 was to leave, and he said he wanted to live in</p> <p>11 Burlington. And, you know, he was living in a</p> <p>12 rural development away from, you know, all sorts</p> <p>13 of normal daily life. So it didn't surprise me a</p> <p>14 bit that he wanted to get back to Burlington.</p> <p>15 And he took a job at an aviation</p> <p>16 company, a CFO position in downtown Burlington.</p> <p>17 Wished him well. He continues to ski and ride at</p> <p>18 Jay Peak, and he's always welcome at the area.</p> <p>19 He's a very nice guy.</p> <p>20 MR. JAMES: If you go to the next</p> <p>21 paragraph, it begins with, fourth. You see that?</p> <p>22 THE WITNESS: Uh-huh.</p> <p>23 MR. JAMES: And it says, "As previously</p> <p>24 expressed by you," and, again, this appears to be</p> <p>25 Mr. Dupont referencing a comment or a discussion</p>
<p style="text-align: right;">Page 111</p> <p>1 MR. JAMES: Okay.</p> <p>2 But no independent recollection, not</p> <p>3 really making that representation to Mr. Dupont,</p> <p>4 at least talking with Mr. Quiros about whether the</p> <p>5 investor funds are being used in this manner?</p> <p>6 THE WITNESS: No recollection. Mike and</p> <p>7 I would have conversations daily about a host of</p> <p>8 things that were going on at the area and some of</p> <p>9 which would be related to construction and</p> <p>10 projects and a lot of it would be related to the</p> <p>11 operation of the ski area.</p> <p>12 You know, I do remember him asking</p> <p>13 some -- for some clarity and wanting more</p> <p>14 responsiveness in terms of getting the statements</p> <p>15 in a timely manner.</p> <p>16 The thing I would like to make clear to</p> <p>17 everyone is the pace at which we were going at</p> <p>18 that time with operations, winter construction,</p> <p>19 the introduction of new investors into Phase II,</p> <p>20 it was -- it was just a tornado of activity. And</p> <p>21 I say that in a positive way. We're going at a</p> <p>22 hundred miles an hour.</p> <p>23 So, you know, whether or not he was</p> <p>24 getting everything he wanted, and it appears that,</p> <p>25 according to this email, he wasn't getting as much</p>	<p style="text-align: right;">Page 113</p> <p>1 that he had with you prior to writing this email,</p> <p>2 and he says, "As previously expressed by you --"</p> <p>3 THE WITNESS: To you.</p> <p>4 MR. JAMES: To you, sorry -- "it is not</p> <p>5 appropriate for an owner or member of the Board to</p> <p>6 control treasury functions of these entities if</p> <p>7 they are not an officer and/or their actions in</p> <p>8 using these accounts are not directly controlled</p> <p>9 by the managing group of these entities, which is</p> <p>10 you and the Accounting Department."</p> <p>11 Do you see that?</p> <p>12 THE WITNESS: I do.</p> <p>13 MR. JAMES: And according to Mr. Dupont,</p> <p>14 he's previously expressed this opinion to you</p> <p>15 prior to writing this email?</p> <p>16 THE WITNESS: Well, he states it here. I</p> <p>17 don't recall a conversation where I would've</p> <p>18 agreed that Ariel Quiros, the co-owner of the</p> <p>19 resort, who is the overseer, so to speak, of our</p> <p>20 financial relationship with our bank, does not</p> <p>21 have the right to -- to perform, you know, that</p> <p>22 function.</p> <p>23 MR. JAMES: But what would be your basis</p> <p>24 for taking that position?</p> <p>25 THE WITNESS: Well, as I said earlier in</p>

<p style="text-align: right;">Page 114</p> <p>1 our conversation, he's co-owner of the resort and</p> <p>2 the person who had the relationship with our</p> <p>3 principal banking entity.</p> <p>4 And, you know, I do not recall ever a</p> <p>5 conversation with Mike Dupont about it is not</p> <p>6 appropriate for a member -- an owner or a member</p> <p>7 of the Board to control treasury functions of</p> <p>8 these entities. He's not controlling the -- or</p> <p>9 Ary was not controlling the functions. He may</p> <p>10 have been managing the relationship with Raymond</p> <p>11 James, but I was the signatory for the deposits</p> <p>12 and the payments. And, you know, I don't recall a</p> <p>13 conversation with Mike about that.</p> <p>14 MR. JAMES: But were you also the</p> <p>15 signatory for the limited partnership accounts at</p> <p>16 Raymond James?</p> <p>17 THE WITNESS: No, I was not.</p> <p>18 MR. JAMES: Okay.</p> <p>19 THE WITNESS: No, I was not.</p> <p>20 MR. JAMES: He could be referring to --</p> <p>21 THE WITNESS: He might be.</p> <p>22 MR. JAMES: -- the discussions about</p> <p>23 Raymond James statements?</p> <p>24 THE WITNESS: Uh-huh.</p> <p>25 MR. JAMES: You have to say yes or no.</p>	<p style="text-align: right;">Page 116</p> <p>1 partner has important responsibilities for the</p> <p>2 operation of the limited partnership and the</p> <p>3 creation of the facilities that we promised to</p> <p>4 build in the agreement. The relationship between</p> <p>5 Raymond James, whether you do or don't have an</p> <p>6 authority is not an area that I have an opinion</p> <p>7 on.</p> <p>8 I've expressed to you prior that Ary was</p> <p>9 the person who coordinated and facilitated the</p> <p>10 Raymond James relationships. And I trusted him</p> <p>11 and do so to this day to do it in the right way.</p> <p>12 And my -- according to this email, which</p> <p>13 obviously, you know, was -- I don't recall all the</p> <p>14 details of it, is asking for more clarity in</p> <p>15 expressing some concerns and some of which may be</p> <p>16 correct and some of which may not be correct.</p> <p>17 MR. JAMES: But the limited partnership</p> <p>18 agreement for the limited partnership Phase I and</p> <p>19 the limited partnership Phase II, don't those</p> <p>20 speak to the general partner being the entity that</p> <p>21 has control over the limit the partnership, and,</p> <p>22 therefore, the limit the partnership accounts?</p> <p>23 Doesn't it specifically say the general partner is</p> <p>24 the entity that has that authority?</p> <p>25 THE WITNESS: It might very well state</p>
<p style="text-align: right;">Page 115</p> <p>1 Sorry.</p> <p>2 THE WITNESS: I'm sorry.</p> <p>3 MR. JAMES: And then he links Hotel I</p> <p>4 and Hotel II in his -- what appears to be an</p> <p>5 excerpt from the Raymond James statements. He's</p> <p>6 talking about the limited partnership accounts at</p> <p>7 Raymond James, and what he seems to say is that he</p> <p>8 expressed to you that Mr. Quiros, as a member of</p> <p>9 the Board and owner of Jay Peak, shouldn't have</p> <p>10 treasury control over these limited partnership</p> <p>11 accounts. Would you agree or disagree with that?</p> <p>12 THE WITNESS: I really don't have an</p> <p>13 opinion. My opinion -- I guess I should restate</p> <p>14 that. I feel that Mr. Quiros is an integral part</p> <p>15 of our organization, and, you know, he managed the</p> <p>16 funds' placement and maximization and utilization,</p> <p>17 and he did it in consort with me and our staff. I</p> <p>18 think what I'm reading here is, Mike wanted</p> <p>19 more -- I think wanted more clarity and detail.</p> <p>20 MR. JAMES: But doesn't the general</p> <p>21 partner, according to the limited partnership</p> <p>22 agreement, is the entity that actually controls</p> <p>23 the limited partnership, and, therefore, the</p> <p>24 limited partnership accounts at Raymond James?</p> <p>25 THE WITNESS: I can say that the general</p>	<p style="text-align: right;">Page 117</p> <p>1 that.</p> <p>2 MR. JAMES: And earlier, you testified</p> <p>3 that you are the individual that, basically,</p> <p>4 functions as the general partner to these two</p> <p>5 limited partnerships?</p> <p>6 THE WITNESS: Correct.</p> <p>7 MR. JAMES: Okay.</p> <p>8 So according to what Mr. Dupont is</p> <p>9 saying here is that it probably should be you, or</p> <p>10 I think he also says or the Accounting Department</p> <p>11 that has control over these accounts, as opposed</p> <p>12 to Mr. Quiros, who's not a part of the general</p> <p>13 partner or the partnership itself?</p> <p>14 THE WITNESS: That appears to be his</p> <p>15 opinion. I would personally disagree with that,</p> <p>16 his opinion, because I don't think he has the</p> <p>17 relationship with Raymond James that Mr. Quiros</p> <p>18 had.</p> <p>19 And remember, go back to 2009 and the</p> <p>20 critical importance of a banking relationship at a</p> <p>21 high level and how critical was that to the</p> <p>22 day-to-day survival of a company, payroll, pay</p> <p>23 your bills, build your facilities. If you don't</p> <p>24 have a banking relationship, you're dead. And</p> <p>25 Mike Dupont did not have a relationship with any</p>

<p style="text-align: right;">Page 118</p> <p>1 bank.</p> <p>2 And so I'm a little emotional about</p> <p>3 this, because he's asking for something. He's</p> <p>4 entitled to ask for control, but he doesn't have</p> <p>5 the relationship with the bank. And I got to tell</p> <p>6 you, I lived through '08 and '09 wondering whether</p> <p>7 or not we'd make payroll, like a lot of companies</p> <p>8 were, because there weren't any banks out there</p> <p>9 that were welcoming you through the door. Raymond</p> <p>10 James was, because of Ary's relationship.</p> <p>11 And I certainly was supportive of the</p> <p>12 fact that he had this relationship, and because of</p> <p>13 that relationship, we had a bank, and we could do</p> <p>14 our job, and we could do what we were supposed to</p> <p>15 do.</p> <p>16 So, I mean, you can find, gee, you know,</p> <p>17 Mike's opinion was he wanted to have his name on</p> <p>18 the accounts. No, I would not agree with that,</p> <p>19 because he was not -- he had been with us for a</p> <p>20 few months. He was doing an adequate job as a</p> <p>21 CFO.</p> <p>22 I will tell you, and I'll put it on the</p> <p>23 record, he's a depressive character. One day,</p> <p>24 he's up; the next day he's down. And it was</p> <p>25 widely known. And it was one of his issues. He</p>	<p style="text-align: right;">Page 120</p> <p>1 what were the investors in Phase I and Phase II</p> <p>2 told about as far as who had control of these</p> <p>3 accounts? Because if the limited partnership</p> <p>4 agreement, which they were provided, says the</p> <p>5 general partner will, but it turns out it's not</p> <p>6 actually the general partner, it's the owner of</p> <p>7 Jay Peak, were the investors told at any point</p> <p>8 after receiving the offering documents that</p> <p>9 actually, no, it's not the general partner, it's</p> <p>10 Ariel Quiros that controls these accounts?</p> <p>11 THE WITNESS: No, there was no</p> <p>12 communications with them.</p> <p>13 And we had thirty-five investors that</p> <p>14 put their funds into the Phase I project. Now,</p> <p>15 some of those funds went into the Raymond James</p> <p>16 account. Some of those funds might've been</p> <p>17 directly paid to the project. Because at -- you</p> <p>18 know, at the very, very beginning, we had started</p> <p>19 construction in -- when we took ownership, and</p> <p>20 some of the payments for some of the work probably</p> <p>21 came out of Chittenden Bank before we set up the</p> <p>22 accounts at Raymond James.</p> <p>23 At the very beginning, there was --</p> <p>24 there was engineering work, architectural work,</p> <p>25 permits, storm water, site preparation all done at</p>
<p style="text-align: right;">Page 119</p> <p>1 had a depression problem.</p> <p>2 And whether he got up that morning and</p> <p>3 was having a hissy fit and decided he was going</p> <p>4 to, you know, make an issue out of something, I</p> <p>5 don't know. I had a good relationship with him.</p> <p>6 I have a pretty damn good relationship with every</p> <p>7 employee that I have. And if they have a problem,</p> <p>8 I generally work around it. I generally find a</p> <p>9 way to keep them focused and -- and productive.</p> <p>10 Some of what he wrote here, I don't</p> <p>11 agree with. And I certainly don't agree that Ary</p> <p>12 should not have had an impact and an important</p> <p>13 role in our relationship with Raymond James.</p> <p>14 This is not an isolated situation. This</p> <p>15 is part of a very big picture. And every single</p> <p>16 week, CEOs and presidents and general managers of</p> <p>17 companies that were new, new companies in 2008,</p> <p>18 you're wondering how you're going to make your</p> <p>19 payroll. And -- and -- and it's very -- it's a</p> <p>20 very complex fiscal network of things. And I</p> <p>21 repeat for about the fifth time, I'm damn glad he</p> <p>22 had that relationship.</p> <p>23 MR. JAMES: Just one last question on</p> <p>24 this issue. So I understand your position, and</p> <p>25 I'm not here to disagree. But my question is: So</p>	<p style="text-align: right;">Page 121</p> <p>1 the beginning of the project before -- actually,</p> <p>2 before the closing, but it was done in</p> <p>3 anticipation of that.</p> <p>4 And then during the summer, I don't know</p> <p>5 what the date of the timing of the opening of the</p> <p>6 Phase I Raymond James account was, but I suspect</p> <p>7 there were substantial vendors paid prior to that.</p> <p>8 But that's just an accounting fact. We could</p> <p>9 determine that.</p> <p>10 So you're -- back to your question of,</p> <p>11 did they know? No, they didn't. But my -- my</p> <p>12 feeling and responsibility is, you've invested</p> <p>13 into this project. We've agreed to build this</p> <p>14 building or better, and your funds, and frankly</p> <p>15 funds of Jay Peak and Mr. Quiros, went into that</p> <p>16 building, because we spent more than seventeen and</p> <p>17 a half million on that project.</p> <p>18 And so some or all of the investors'</p> <p>19 money might've gone through Raymond James, but I</p> <p>20 suspect on Phase I, some of it didn't, because it</p> <p>21 was already -- we had a stack of invoices. And we</p> <p>22 had money in the People's -- or Chittenden Bank at</p> <p>23 the time and some of it probably went to Raymond</p> <p>24 James at the beginning.</p> <p>25 Now, in Phase II and III and IV and V,</p>

Page 122

1 you know, we were far enough ahead in terms of
 2 account set up, that it -- you know, I wouldn't
 3 say all of it went through Raymond James, but in
 4 the very beginning, I suspect there were a few
 5 million that might've gone to the early
 6 construction stuff that we did. But that's -- I
 7 mean, that I could produce the ledger and the
 8 checks and the work done and the invoices for
 9 that. Okay?

10 BY MS. FUCHS-SINDLER:
 11 **Q Did Mr. Quiros ever tell you your name**
 12 **could not be put on any of the Raymond James**
 13 **accounts because he was the one with the**
 14 **relationship with Raymond James?**

15 A No. No. No. I never was concerned
 16 about this, because I knew that the funds were
 17 being invested and placed in an account and we
 18 were building a project.

19 And if I look at Phase I, what was
 20 proposed in the offering document and what was
 21 built, Phase II, what was proposed and built,
 22 Phase III, IV, V, and VI, everything that we said
 23 we would build we did and more, and more.

24 And I know that this is important
 25 detail, but I'm looking at it in the big picture,

Page 123

1 and that is, did we give the investor what they
 2 asked for? Did we build and create for the
 3 investor what the offering documents stated? Did
 4 we do it in a timely way?

5 And bear in mind, my concern was
 6 multiple; build the project, do it within a time
 7 frame that we said we would do, because just as
 8 you might be asking the question, Brian, about, is
 9 the investor aware? Well, you know what the
 10 investors wanted? They wanted their visa, and
 11 they wanted to be assured that the job creation
 12 would occur within a short window. And that was
 13 the race we were in. Build the project, build at
 14 least as much, if not more, than what the offering
 15 said, and do it on time. Because if you don't do
 16 it on time, the developmental job creation and the
 17 operational job creation won't occur and the 829,
 18 which is the removal of conditions for the
 19 investor, won't occur. That is what the investor
 20 wanted clarity on and wanted assurance of.

21 And by me whipping the horse, which is
 22 the construction effort, and keep going, keep
 23 moving, keep building, keep on schedule even
 24 though the weather was screwing us and a lot of
 25 environmental permits were popping up in our face,

Page 124

1 we got it done. We got it done.

2 And there might've been some unclarity
 3 at the CFO level in the first year, but the money
 4 was invested. The bills were paid. The projects
 5 were built. The investor got what they invested
 6 in and more.

7 I hope we'll have the opportunity to
 8 talk about that at some point, but that is --
 9 that's the bottom line, did they get what we said
 10 they would get? Did we build it right? Did we
 11 build it on time? Did we meet our obligations
 12 from an immigration standpoint and an investment
 13 standpoint? And I'll tell you, we sure did.

14 MR. JAMES: Just to wrap up on Exhibit
 15 No. 95, just if you're still on that same page, if
 16 you go down to where you have the three bullet
 17 points. Do you see those?

18 THE WITNESS: Yes.

19 MR. JAMES: The first one says, "It is
 20 required that these Raymond James accounts only
 21 have signature authority by you as the President,"
 22 referring to yourself, Mr. Stenger, "and the other
 23 officers of Hotel I and Hotel II," and then open
 24 paren, "not me," close paren, and that's Mr.
 25 Dupont speaking.

Page 125

1 THE WITNESS: Uh-huh.

2 MR. JAMES: This is under the section
 3 titled, Actions Required. And, again, you just
 4 saw I read it and I think you followed along with
 5 me.

6 Do you remember Mr. Dupont having a
 7 discussion with you about suggesting or at least
 8 asking that you be the only signature on these
 9 Raymond James LP accounts because you're the
 10 President of the GP?

11 THE WITNESS: You know, I see it on the
 12 email. I don't recall it.

13 MR. JAMES: Okay.

14 Do you recall ever speaking to Mr.
 15 Quiros and requesting or at least suggesting that
 16 you be put as the signatory or at least added as a
 17 signatory to the Raymond James LP accounts? Do you
 18 recall having that discussion?

19 THE WITNESS: I don't recall that,
 20 Brian.

21 MR. JAMES: Any discussion or
 22 recollection about having some type of GP charter
 23 or resolution that gives or gave Mr. Quiros
 24 authority to act on behalf of the limited
 25 partnership and have signatory authority on these

<p style="text-align: right;">Page 126</p> <p>1 accounts?</p> <p>2 THE WITNESS: I don't know if that</p> <p>3 exists or not to be honest with you.</p> <p>4 MR. JAMES: Any specific recollection,</p> <p>5 though?</p> <p>6 THE WITNESS: I have no recollection.</p> <p>7 MR. JAMES: Okay. Either way?</p> <p>8 THE WITNESS: No. No. I'm sorry.</p> <p>9 I mean, you know, when you're -- just as</p> <p>10 I said earlier about the Chittenden Bank master</p> <p>11 account for the escrow account, when we set up the</p> <p>12 accounts, you do your signatures, you set up the</p> <p>13 account, I don't think I ever signed a Raymond</p> <p>14 James account. But you know if you produced one</p> <p>15 here for me, a form that was a Raymond James thing</p> <p>16 and my signature was on it -- somewhere along the</p> <p>17 line -- and I'm not saying this exists.</p> <p>18 I'm just saying, I don't remember all</p> <p>19 the details of everything that I might've signed.</p> <p>20 I've signed so many hundreds and hundreds,</p> <p>21 probably thousands of requests and documents over</p> <p>22 the course of the last six or eight years,</p> <p>23 probably ten thousand checks and hundreds and</p> <p>24 hundreds of contracts. And, you know, I don't</p> <p>25 recall every single one of them. You know, and I</p>	<p style="text-align: right;">Page 128</p> <p>1 you recall signing or --</p> <p>2 THE WITNESS: I don't recall signing --</p> <p>3 I don't recall -- you're using the term "loan</p> <p>4 money to Jay Peak, Inc." I'm trying to, you know,</p> <p>5 distinguish the corporations and the functions.</p> <p>6 I'm on the ground running the place. I'm</p> <p>7 paying bills. I'm paying staff. I'm paying</p> <p>8 contractors. I'm building things. And the funds</p> <p>9 that come to pay the bills come from different</p> <p>10 sources. The funds to pay for the construction of</p> <p>11 the partnership projects come from those accounts</p> <p>12 and came almost always from Raymond James.</p> <p>13 Now, our operating Jay Peak, Inc.</p> <p>14 payroll came from other places. Operating -- you</p> <p>15 know, we have a fifty-one million dollar a year</p> <p>16 operation now. So we have banking relationships</p> <p>17 with People's United for our operations</p> <p>18 day-to-day.</p> <p>19 Raymond James, in the beginning, was and</p> <p>20 continues to be mostly focused on construction of</p> <p>21 the projects. And -- so, you know, I'm trying to</p> <p>22 tell you what I know and how it works on the</p> <p>23 ground.</p> <p>24 MR. JAMES: And when you say Raymond</p> <p>25 James focuses on construction projects, you mean</p>
<p style="text-align: right;">Page 127</p> <p>1 don't know the answer to that question.</p> <p>2 MS. LAMA: Just one question. In terms</p> <p>3 of the significance as you stated before,</p> <p>4 described before of the relationship with Raymond</p> <p>5 James, other than holding or -- holding the EB-5</p> <p>6 investors' money in this Treasury bill investment</p> <p>7 function, were they lending money to Jay Peak or</p> <p>8 was there any lending going on?</p> <p>9 THE WITNESS: I don't -- I don't know</p> <p>10 the -- to Jay Peak, Inc.? No. Remember, Jay Peak</p> <p>11 was owned by -- is owned by Q Resorts, and Q</p> <p>12 Resorts is owned by Ary Quiros. Ary Quiros has</p> <p>13 banking relationships with Raymond James.</p> <p>14 We deposit money from Jay Peak in our</p> <p>15 investment projects into Raymond James. And he is</p> <p>16 the quarterback of the financial team. So, you</p> <p>17 know, did Raymond James loan Jay Peak, Inc. money?</p> <p>18 I don't think so.</p> <p>19 MS. LAMA: Okay.</p> <p>20 Did Raymond James loan any of the EB-5</p> <p>21 general partnerships or limited partnerships</p> <p>22 money?</p> <p>23 THE WITNESS: I don't -- I don't know</p> <p>24 the answer to that.</p> <p>25 MR. JAMES: But as general partner, do</p>	<p style="text-align: right;">Page 129</p> <p>1 the money that comes out of the Raymond James</p> <p>2 accounts --</p> <p>3 THE WITNESS: To pay for the development</p> <p>4 of the limited partnership projects I through VI.</p> <p>5 MS. LAMA: So then just to make sure</p> <p>6 we're clear, to your understanding, were any --</p> <p>7 did Raymond James loan money to any of the limited</p> <p>8 partnerships or any of the general partnerships</p> <p>9 over the limited partners?</p> <p>10 THE WITNESS: I don't know the technical</p> <p>11 answer to that. I don't think so. I don't know</p> <p>12 of -- I don't know. I know you can probably ask</p> <p>13 that question of Mr. Quiros, and he'll be able to</p> <p>14 give you a very precise answer.</p> <p>15 MR. JAMES: But you would expect to know</p> <p>16 if the limited partnership accounts was borrowing</p> <p>17 money from Raymond James? Would that be something</p> <p>18 you would expect to know?</p> <p>19 THE WITNESS: I suspect. But remember,</p> <p>20 I'm building the project. I'm building the box. I</p> <p>21 have to pay for the building of the box. And</p> <p>22 every month, I would put my requests for the</p> <p>23 payment of the building of the box to Ary. And</p> <p>24 he, through the accounts at Raymond James, would</p> <p>25 supply the funds to pay for the construction of</p>

<p style="text-align: right;">Page 130</p> <p>1 the box whether it was the first box, second, 2 third, fourth, fifth, or sixth. And we always 3 built the box.</p> <p>4 MR. JAMES: But you mean he would -- 5 when you say he would supply the funds, you mean 6 he would transfer the investor funds from Raymond 7 James --</p> <p>8 THE WITNESS: Yes.</p> <p>9 MR. JAMES: -- to pay for the 10 construction?</p> <p>11 THE WITNESS: He would -- he would 12 transfer the funds into our checking account in 13 People's United, and we would then pay our vendors 14 and suppliers or employees that were involved with 15 the project.</p> <p>16 MS. FUCHS-SINDLER: It's about 1:30. Do 17 you want to keep going, or do you want to take a 18 break? I want to ask you, Mr. Stenger, and also 19 our court reporter.</p> <p>20 THE WITNESS: All I need is water.</p> <p>21 MR. JAMES: Well, let's ask the court 22 reporter.</p> <p>23 MS. FUCHS-SINDLER: Do you want to take 24 a break now?</p> <p>25 THE COURT REPORTER: Whenever you want.</p>	<p style="text-align: right;">Page 132</p> <p>1 thousand from the Phase II operating account to 2 the coordinates, and it's got the coordinates 3 below.</p> <p>4 Do you recognize this document?</p> <p>5 A I recognize my signature. And I'm 6 looking for a date. There's no date on it.</p> <p>7 Q Can you tell us what this is for?</p> <p>8 A Can I tell you what it's for?</p> <p>9 Q Yeah. What is this document?</p> <p>10 A Well, it looks like it's a note to 11 Jessica to -- "Per our conversation, please, wire 12 six hundred thousand from Phase II operating 13 account to the coordinates below. Wiring 14 coordinates for Raymond James and Associates, 15 Inc." And it gives the location and the account 16 number and signed by me.</p> <p>17 Q And it's for the benefit of Q Resorts 18 Inc.; is that correct?</p> <p>19 A Yes, it says that.</p> <p>20 Q Okay.</p> <p>21 A May I ask where the date is? There's no 22 date on it?</p> <p>23 Q If you look toward the upper-right side, 24 it says, "Okay." And then it looks like D --</p> <p>25 A Debra AD -- AB. Okay.</p>
<p style="text-align: right;">Page 131</p> <p>1 THE WITNESS: Out of courtesy for her, I 2 think we ought to take a break.</p> <p>3 MS. FUCHS-SINDLER: Yeah. You know 4 what? We'll go off the record now and take a 5 lunch break.</p> <p>6 (Whereupon, at 11:33 p.m., a luncheon 7 recess was taken.)</p> <p>8 AFTERNOON SESSION</p> <p>9 MS. FUCHS-SINDLER: We're back on the 10 record after a lunch break.</p> <p>11 (SEC Exhibit No. 96 was marked 12 for identification.)</p> <p>13 BY MS. FUCHS-SINDLER:</p> <p>14 Q During that time, there were no 15 substantive conversations, except, Mr. Stenger, 16 right after we went off the record, you gave us I 17 guess various -- a group of photos you had of the 18 various different projects at Jay Peak. And we 19 appreciate that, and we're going to talk more 20 about that later.</p> <p>21 But first, we have marked as Exhibit No. 22 96 a one-page document, and it's a letter to 23 Jessica Foerst, F-O-E-R-S-T, dash, Bilodeau, 24 B-I-L-O-D-E-A-U, at Chittenden Bank from William 25 Stenger. And it's the request to wire six hundred</p>	<p style="text-align: right;">Page 133</p> <p>1 Q And it says, "7/01/08."</p> <p>2 A Okay.</p> <p>3 Q Can you tell us why you sent this 4 request?</p> <p>5 A I have no recollection of this. I don't 6 know. Looking at the date of what's written here, 7 which is written in hand by DAB, which would be 8 maybe a Jay Peak name. I don't know. Anytime I 9 send a letter, I usually put the date on it, you 10 know. And I don't see a date here. So is it 11 7/1/08?</p> <p>12 We -- the closing was June 27th, '08, 13 correct -- June 23rd? So this would've been like 14 a week later if that's the day.</p> <p>15 Q Do you know why the six hundred thousand 16 would be wired from Phase II to Q Resorts?</p> <p>17 A I do not. I do not.</p> <p>18 MR. JAMES: But you just I guess like in 19 your head you were trying to, based on the date, 20 see what events were occurring around that time, 21 and you mentioned the closing?</p> <p>22 THE WITNESS: Well, I'm responding to a 23 handwritten thing here that says, "Okay, DAB," and 24 it says, "7/1/08." And I don't know -- it was, 25 obviously, in response to a request to do a</p>

<p style="text-align: right;">Page 134</p> <p>1 transfer and that is my signature. And Debra 2 Foerst-Bilodeau is someone we worked with at the 3 Chittenden. And -- 4 MR. JAMES: Any chance it had anything 5 to do with the funding of the closing by Q Resorts 6 seeing that it's a week after the closing date? 7 THE WITNESS: I don't know what it 8 would've been in regards to. I'd have to -- I'd 9 have to review what was going on in Phase II at 10 the time, if anything, in particular. I just 11 don't -- I don't know. 12 MR. JAMES: Okay. 13 And just as far as the universe of 14 possibilities you can contemplate at this point, 15 any that would involve you wiring Phase II monies 16 to Q Resorts, and not to Phase II Raymond James, 17 but Q Resorts Raymond James, anything that comes 18 to mind? 19 THE WITNESS: There's nothing that I can 20 recall. 21 MR. JAMES: Okay. 22 And any recollection at all of wiring 23 money from Phase II People's Bank or Phase I 24 People's Bank or any of the projects to Q Resorts, 25 any recollection of doing that? Any instance of</p>	<p style="text-align: right;">Page 136</p> <p>1 would be a correspondence from me to the bank. 2 Now, whether it would be in a one-sentence letter 3 or -- as we got further into the projects, I think 4 the Accounting Department set up a template, and 5 this was early on, and so it was probably more 6 personalized. 7 MR. JAMES: Okay. Okay. 8 And would these be retained by you or 9 your assistant in some organized fashion? 10 THE WITNESS: I'm sure that anything 11 like this that I signed is in the files. 12 MR. JAMES: So your belief -- 13 THE WITNESS: No. 14 MR. JAMES: -- is that you would have 15 all of the wire authorization -- 16 THE WITNESS: We would -- we would not. 17 MS. FUCHS-SINDLER: You have to let him 18 finish. 19 THE WITNESS: I'm sorry. By 5:30, I'll 20 get it right. 21 MR. JAMES: When it really counts. 22 But it's your recollection is that would 23 have -- you'd expect to have copies of every wire 24 authorization signed by you to move money from one 25 account at People's Bank to another account at</p>
<p style="text-align: right;">Page 135</p> <p>1 those transfers being authorized? 2 THE WITNESS: I -- I don't. I mean, I'm 3 acknowledging that this is my signature and that's 4 my stationery. And I'm assuming that the date 5 that somebody has written on this is a reflective 6 period of time, but I don't have any knowledge 7 that what the date of this was. 8 I suspect if we were to check with the 9 wiring coordinates for the transfer, we could get 10 quite precise about how close it is, but -- and 11 let's say for the sake of discussion, it's on or 12 about the 1st of July, it must've been for some 13 purpose. And, you know, I'm acknowledging that I 14 was the one who initiated the wire, because, yeah, 15 that's my signature, but I don't recall the 16 purpose or the particular of what was -- what was 17 involved. 18 MR. JAMES: Let me ask you a different 19 question, same exhibit. Is this, and by this, 20 referring to Exhibit No. 96, is this the typical 21 form that you would use to authorize money to be 22 transferred from the People's Bank accounts to the 23 corresponding Raymond James accounts that you 24 testified about earlier? 25 THE WITNESS: I don't know. I mean, it</p>	<p style="text-align: right;">Page 137</p> <p>1 Raymond James? 2 THE WITNESS: I believe that there's an 3 authorization for everything that was done, and I 4 signed them. 5 MR. JAMES: And, again, I think your 6 testimony was that you get provided with the 7 request and what it's for, and then it's put in 8 front of you, and then you sign authorizing -- I'm 9 assuming if it's acceptable to you, you sign it, 10 and then the transaction is executed? 11 THE WITNESS: Uh-huh. 12 MR. JAMES: Yes or no, sir. 13 THE WITNESS: Sorry. Yes. Yes. 14 MR. JAMES: And just going back to in or 15 around the closing, do you recall who would be the 16 person or would've been the person that would've 17 brought you something similar to Exhibit No. 96 18 asking you to authorize the movement of this 19 money? I know Mr. Dupont came shortly after, so 20 would it be him or would it be someone else? 21 THE WITNESS: I'm trying to remember 22 based on the signature here, DAB, I am not sure 23 who that is. 24 MR. JAMES: And that could be someone at 25 the bank?</p>

<p style="text-align: right;">Page 138</p> <p>1 THE WITNESS: At the bank.</p> <p>2 MR. JAMES: You never know.</p> <p>3 THE WITNESS: Brian, I'm sorry. I</p> <p>4 don't -- I don't recall the instance of this, but</p> <p>5 I certainly can verify that it's my signature, my</p> <p>6 letterhead, and I'm initiating the transfer.</p> <p>7 (SEC Exhibit No. 97 was marked</p> <p>8 for identification.)</p> <p>9 BY MS. FUCHS-SINDLER:</p> <p>10 Q The court reporter has just marked as</p> <p>11 Exhibit No. 97 a one-page document. You'll see at</p> <p>12 the top it says, April 20th, 2014. It has the</p> <p>13 time. It says GSI Dade County. It appears to be</p> <p>14 dated -- a one-page letter, dated November 16th,</p> <p>15 2011 to Raymond James and Ariel Quiros from Mr.</p> <p>16 Stenger regarding authorization for Mr. Quiros to</p> <p>17 have custody of funds held by the Stateside</p> <p>18 project.</p> <p>19 Do you recognize this document?</p> <p>20 A I do. I recognize my signature.</p> <p>21 MR. JAMES: Say that again. Sorry.</p> <p>22 THE WITNESS: I recognize my signature.</p> <p>23 MR. JAMES: Okay. Tell us about this</p> <p>24 document.</p> <p>25 THE WITNESS: Well, it's -- it's</p>	<p style="text-align: right;">Page 140</p> <p>1 THE WITNESS: Yeah. Yeah. I have a --</p> <p>2 that's my stamp.</p> <p>3 MR. JAMES: So you have a signature</p> <p>4 stamp?</p> <p>5 THE WITNESS: Yeah.</p> <p>6 MR. JAMES: Okay.</p> <p>7 THE WITNESS: Now, do I use it very</p> <p>8 often? No.</p> <p>9 MR. JAMES: Okay.</p> <p>10 THE WITNESS: But I had one.</p> <p>11 MR. JAMES: Why have a stamp if you're</p> <p>12 not going to use it?</p> <p>13 THE WITNESS: Well, yeah, you know. But</p> <p>14 that was the signature. I was probably in a</p> <p>15 hurry.</p> <p>16 MR. JAMES: So when it's William</p> <p>17 Stenger, you sign one way, and then when it's Bill</p> <p>18 Stenger, you use a stamp?</p> <p>19 THE WITNESS: That's correct -- no. No.</p> <p>20 No. When I sign William J. Stenger, I sign it one</p> <p>21 way, and if it's Bill Stenger, I sign it another.</p> <p>22 MR. JAMES: Oh, okay. Okay. I got you.</p> <p>23 THE WITNESS: And I'm telling you that</p> <p>24 on rare occasions, I might use a stamp.</p> <p>25 MR. JAMES: Okay.</p>
<p style="text-align: right;">Page 139</p> <p>1 giving -- as I said earlier in my comments this</p> <p>2 morning, it's giving Ariel the opportunity and</p> <p>3 responsibility to quarterback the funds for our</p> <p>4 project, and that's what it directed.</p> <p>5 MR. JAMES: And you recall actually</p> <p>6 signing this document, or are you saying you</p> <p>7 recognize --</p> <p>8 THE WITNESS: I recognize my signature,</p> <p>9 and it's dated back in November of '11. That is</p> <p>10 my signature, and it is my letterhead.</p> <p>11 MR. JAMES: And let me ask you, if you</p> <p>12 take a look at Exhibit No. 96, if you could, do</p> <p>13 you see your signature on 96?</p> <p>14 THE WITNESS: Yeah.</p> <p>15 MR. JAMES: If you could compare it to</p> <p>16 your signature on 97.</p> <p>17 THE WITNESS: Uh-huh.</p> <p>18 MR. JAMES: Do both of those reflect</p> <p>19 different ways you sign?</p> <p>20 THE WITNESS: Yeah. William J. Stenger</p> <p>21 is my one signature and Bill Stenger's the other.</p> <p>22 MR. JAMES: Okay.</p> <p>23 THE WITNESS: And this -- that's a</p> <p>24 stamp.</p> <p>25 MR. JAMES: Oh, in Exhibit 96?</p>	<p style="text-align: right;">Page 141</p> <p>1 And the stamp signature is different</p> <p>2 than the Bill Stenger signature?</p> <p>3 THE WITNESS: Well, you know -- if I</p> <p>4 wrote my name Bill Stenger ten times, they would</p> <p>5 all approximate one another. And if I wrote with</p> <p>6 my William J. Stenger signature, it would all</p> <p>7 approximate the same.</p> <p>8 And as I know many of us at times do</p> <p>9 when we're asked to sign things, we'll sign them</p> <p>10 quickly, and we'll keep going. And that's what</p> <p>11 I -- what I can share with you.</p> <p>12 MR. JAMES: Okay.</p> <p>13 Do you remember providing Exhibit 97 to</p> <p>14 Mr. Quiros? I know it's directed to Raymond James</p> <p>15 also, but do you recall who, if anyone, you</p> <p>16 provided this letter to?</p> <p>17 THE WITNESS: I'm sure I gave it to Ary,</p> <p>18 sent it to him. It was probably requested, and I</p> <p>19 sent it.</p> <p>20 MR. JAMES: And you're saying you're</p> <p>21 sure, because that's what you normally would do,</p> <p>22 or you actually remember?</p> <p>23 THE WITNESS: Well, yeah, that's what I</p> <p>24 would do. Yeah. You're showing me some exhibits,</p> <p>25 one of which is six years old and one is three</p>

<p style="text-align: right;">Page 142</p> <p>1 years old, and I'm visualizing and recognizing, 2 yeah, this is what I was doing, and I take 3 responsibility for both of these. 4 MR. JAMES: Okay. 5 Do you know whether a similar letter or 6 similar authorization was given for the other 7 partnership accounts at Raymond James, Hotel I, 8 Hotel II, Penthouse Suites, Golf and Mountain 9 Suites? 10 THE WITNESS: I'd have to look at the 11 files to know that, Brian. I wouldn't be 12 surprised, but I don't know. 13 MR. JAMES: No specific recollection of 14 doing so? 15 THE WITNESS: Not really, no. But I can 16 check the file and determine if letters such as 17 this exist for them, too. 18 MR. JAMES: Okay. All right. Thank 19 you. 20 THE WITNESS: I know that, you know, 21 this particular request and this one, those are my 22 signatures, and I'm -- I understand what they 23 represent. 24 MR. JAMES: Okay. Thanks. 25 BY MS. FUCHS-SINDLER:</p>	<p style="text-align: right;">Page 144</p> <p>1 Q Do you actually remember signing this 2 letter? 3 A No. I'm saying that that's my 4 signature, and I recall the instance of giving him 5 responsibility for organizing and looking after 6 the funds. You know, back in November of 2011 was 7 three years ago. 8 MS. LAMA: Was there a specific 9 situation with Jay Peak Hotel Suites Stateside, LP 10 that required this letter? 11 THE WITNESS: I don't recall the 12 particular instances around that, no. I don't 13 know. 14 MS. LAMA: Have there been any concerns 15 raised at any time concerning Quiros's authority 16 to have control over accounts at Raymond James? 17 THE WITNESS: Concerns by me? 18 MS. LAMA: Concerns by anyone. 19 THE WITNESS: Can you repeat that? 20 MS. LAMA: Have there been any issues 21 raised or concerns raised about Quiros having 22 authority to have control over accounts at Raymond 23 James? 24 THE WITNESS: I can only respond by the 25 earlier email that Michael Dupont, apparently --</p>
<p style="text-align: right;">Page 143</p> <p>1 Q Looking at Exhibit 97, when was this 2 document drafted? 3 A Probably November 16th or maybe it was 4 the day before. I don't know. 5 Q And why did you draft it? What spurred 6 it? 7 A I think it was probably a request that 8 they have a matter of authority to -- well, I'm 9 reading the letter. This letter provides 10 authorization for Ariel Quiros to have custody of 11 funds held by the Jay Peak Hotel Suites Stateside 12 and for the same to be held in his designated 13 Raymond James accounts. I suspect it was 14 housekeeping. 15 MS. LAMA: Did you come up with the 16 language for this letter? 17 THE WITNESS: I don't -- I don't recall, 18 but I don't -- I think I was asked to sign this 19 letter. I mean, this is a legal phrase. I'm not 20 an attorney. 21 So, you know, there are lots of times in 22 the course of a business where you are putting 23 together documentation to housekeep and, you know, 24 this might've been one of those situations. 25 BY MS. FUCHS-SINDLER:</p>	<p style="text-align: right;">Page 145</p> <p>1 well, did send to me, and he expressed some 2 concerns. But I don't -- other than that, I don't 3 know of any. 4 MS. LAMA: What about any concerns 5 raised by FINRA? 6 THE WITNESS: FINRA? Can you explain 7 what FINRA is? 8 MS. LAMA: Have you been involved in any 9 conversations related to any issues that have been 10 raised by an agency called FINRA? 11 THE WITNESS: No. But I'm asking you to 12 identify what FINRA is for me. 13 BY MS. FUCHS-SINDLER: 14 Q Just has any regulatory authority ever 15 raised any type of concern about Mr. Quiros's 16 control? 17 A To my knowledge, no. 18 Q Okay. 19 MS. LAMA: What about with Quiros, any 20 conversations with Quiros that an issue has arisen 21 at Raymond James concerning custody of the 22 accounts? 23 THE WITNESS: I have no knowledge of 24 that. 25 MR. JAMES: Do you have any recollection</p>

<p style="text-align: right;">Page 146</p> <p>1 of either seeing or being made aware of any credit 2 agreements or other documents between Raymond 3 James and any of the limited partnerships? 4 THE WITNESS: Credit agreements? 5 MR. JAMES: Yeah. Documents which, 6 basically, evidence that the limited partnerships 7 may be or will be indebted to Raymond James either 8 for a margin loan or some other line of credit 9 being extended to the limit the partnership. 10 THE WITNESS: No. 11 MR. JAMES: So you've never seen a 12 credit agreement or been told by Mr. Quiros that 13 the partnerships had entered into -- 14 THE WITNESS: No. 15 MR. JAMES: -- credit agreements with 16 Raymond James? 17 THE WITNESS: Not to my knowledge. 18 MR. JAMES: What about conversations 19 with any of either your current CFO or any of the 20 are individuals in your Accounting Department, any 21 information to suggest that any of the limited 22 partnerships are indebted or could be indebted to 23 Raymond James? 24 THE WITNESS: No, not that I know of. 25 MR. JAMES: Let me show you what has</p>	<p style="text-align: right;">Page 148</p> <p>1 today? 2 THE WITNESS: Correct. 3 MR. JAMES: Okay. 4 And what's the date on that agreement? 5 THE WITNESS: 18th day of June 2008. 6 MR. JAMES: Okay. So according to this 7 agreement, the Phase I limited partnership entered 8 into this credit agreement with Raymond James and 9 this occurred on June 18th, 2008? 10 THE WITNESS: That's what it says. 11 MR. JAMES: And do you recall that 12 that's in and around the time of the closing of Q 13 Resorts acquisition of Jay Peak, Inc? 14 THE WITNESS: Correct. 15 MR. JAMES: Okay. 16 And no recollection as to the limited 17 partnership being extended credit by Raymond James 18 in and around that time? 19 THE WITNESS: The first time I've seen 20 this document. And the answer is no. 21 MR. JAMES: Okay. Do you -- as you sit 22 here today, do you know the actual account number 23 for the limit partnership account at Raymond 24 James? 25 THE WITNESS: I do not.</p>
<p style="text-align: right;">Page 147</p> <p>1 been previously marked as Exhibit No. 7. I 2 apologize. I don't have a copy. But take a look 3 at that document, and let me know once you've had 4 a chance to look it over. 5 THE WITNESS: I've read it. 6 MR. JAMES: Have you seen that document 7 before? 8 THE WITNESS: I don't -- I don't believe 9 I have. 10 MR. JAMES: And then I'm speaking from 11 memory somewhat. The top of that document, is the 12 title Credit Agreement, or is there a title at the 13 top? 14 THE WITNESS: Yes. 15 MR. JAMES: And it says Credit 16 Agreement? 17 THE WITNESS: Yes. 18 MR. JAMES: Okay. I think the first 19 sentence simply says that this credit agreement -- 20 and it gives a date. And it says it's made 21 between -- or made by what entity? 22 THE WITNESS: Made by Jay Peak Hotel 23 Suites, LP. 24 MR. JAMES: Okay. And that's the LP I 25 Phase I partnership we've been talking about</p>	<p style="text-align: right;">Page 149</p> <p>1 MR. JAMES: Okay. 2 So, for example, if you go down to 3 paragraph number three, and, again, I'm just going 4 from memory. Do you see, it's probably 5 mid-paragraph, there's a series of numbers? 6 THE WITNESS: There are two numbers. 7 MR. JAMES: Two numbers. 8 Do you recognize either one of those to 9 be the limited partnership account for Phase I 10 Raymond James? 11 THE WITNESS: I don't know the numbers 12 by heart, and I don't know if they are or not, but 13 they could be. 14 MR. JAMES: Okay. 15 And the second number, do you recognize 16 that? 17 THE WITNESS: I don't recognize the 18 number. It's a seven-digit number. It could be, 19 you know, whatever it is. 20 MR. JAMES: Okay. 21 And if you go down to paragraph four, 22 which seems to talk about the actual collateral 23 that's going to support this extension of credit 24 by Raymond James, do you see those same two 25 account numbers in paragraph four?</p>

<p style="text-align: right;">Page 150</p> <p>1 THE WITNESS: I do.</p> <p>2 MR. JAMES: Okay. And, again, you don't</p> <p>3 recognize those numbers to be LP I, LP II</p> <p>4 accounts?</p> <p>5 THE WITNESS: I don't.</p> <p>6 MR. JAMES: Okay.</p> <p>7 Nor do you recognize this document as</p> <p>8 you sit here today?</p> <p>9 THE WITNESS: No.</p> <p>10 MR. JAMES: Okay.</p> <p>11 And, again, you have no knowledge or</p> <p>12 information about the LP accounts being extended</p> <p>13 credit whether in the form of margin loan or some</p> <p>14 other extension by Raymond James?</p> <p>15 THE WITNESS: I do not.</p> <p>16 MR. JAMES: So if I were to show you all</p> <p>17 the credit agreements where Jay Peak, Inc. is the</p> <p>18 entity that's being extended the credit, would</p> <p>19 that be something you would be familiar with?</p> <p>20 THE WITNESS: Brian, I -- you know,</p> <p>21 there's, as I said this morning, so many documents</p> <p>22 that I may have seen or not seen. This, I don't</p> <p>23 recall seeing.</p> <p>24 You're asking me to respond to a very</p> <p>25 broad statement about all the partnerships, and</p>	<p style="text-align: right;">Page 152</p> <p>1 And then page three is a photo collage</p> <p>2 of the Tram Haus Lodge facility.</p> <p>3 MR. JAMES: Is that Phase I?</p> <p>4 THE WITNESS: Phase I. And it is a</p> <p>5 reflection of the Phase I from the mountain side</p> <p>6 of the resort. It's done in the -- it has a photo</p> <p>7 of the spring -- or the summer, as well as the</p> <p>8 winter. It also shows one of the facilities in</p> <p>9 the hotel spa and a restaurant.</p> <p>10 The next page shows the mountain view</p> <p>11 side of the Hotel Jay, Penthouse Suites, water</p> <p>12 park, and subset photos of the conference center,</p> <p>13 and one of the suites in the hotel.</p> <p>14 MR. JAMES: This is Phase II?</p> <p>15 THE WITNESS: Phase II.</p> <p>16 The other -- the next photo shows the</p> <p>17 valley side entrance of the Hotel Jay, lobby, and</p> <p>18 library.</p> <p>19 The photo after that shows the ice</p> <p>20 arena, both exterior and interior.</p> <p>21 The next photo shows the golf clubhouse</p> <p>22 with its various suites in the top. It shows its</p> <p>23 restaurant, and it also shows the cross country</p> <p>24 trail network that it goes by it in the winter</p> <p>25 time.</p>
<p style="text-align: right;">Page 151</p> <p>1 you're asking me, do I remember and do I know that</p> <p>2 there's an agreement between each one? I don't</p> <p>3 know.</p> <p>4 MR. JAMES: Okay. But you have not seen</p> <p>5 a credit agreement in relation to any of the</p> <p>6 limited partnership accounts?</p> <p>7 THE WITNESS: I have not, no. No.</p> <p>8 Do you want this back?</p> <p>9 MR. JAMES: Actually, let me take it</p> <p>10 back just because we don't have it. I can give it</p> <p>11 back to you if you need to refer to it.</p> <p>12 (SEC Exhibit No. 98 was marked</p> <p>13 for identification.)</p> <p>14 BY MS. FUCHS-SINDLER:</p> <p>15 Q The court reporter has marked as Exhibit</p> <p>16 No. 98 a multi-page document that you provided to</p> <p>17 us right before we went to lunch, and let me show</p> <p>18 this to you. Can you tell me what this is?</p> <p>19 A It is a series of representations that</p> <p>20 point out where the state of Vermont is in</p> <p>21 relationship to the rest of United States.</p> <p>22 Page two shows where Vermont is in</p> <p>23 relationship to the other New England states and</p> <p>24 points out where, within the state of Vermont, the</p> <p>25 Jay Peak community is located.</p>	<p style="text-align: right;">Page 153</p> <p>1 The next photo is a picture of the tenth</p> <p>2 fairway of the golf course, but in the background</p> <p>3 is the Phase I Tram Haus Lodge project on the</p> <p>4 right with the Phase II Hotel Jay, Penthouse</p> <p>5 Suites, ice arena, and covered parking garage on</p> <p>6 the left-hand side of that photo.</p> <p>7 The next photo --</p> <p>8 MR. JAMES: Before you move on --</p> <p>9 THE WITNESS: I'm sorry.</p> <p>10 MR. JAMES: -- what is this structure in</p> <p>11 between the Tram Haus Lodge and Hotel Jay? What</p> <p>12 is that?</p> <p>13 THE WITNESS: That is the aerial Tram</p> <p>14 building and cafeteria area. There's also the</p> <p>15 Austria Haus, which is in the center, which has an</p> <p>16 event room and also a facility called The</p> <p>17 Provisions General Store.</p> <p>18 The Tram itself was constructed in 1965,</p> <p>19 '66, and '67. And that's the forward building in</p> <p>20 that particular complex.</p> <p>21 MR. JAMES: Okay. So as far as what the</p> <p>22 limited partners own in this picture we're looking</p> <p>23 at now, it would be Hotel Jay?</p> <p>24 THE WITNESS: They would own -- if I can</p> <p>25 direct you to the right.</p>

<p style="text-align: right;">Page 154</p> <p>1 MR. JAMES: Okay.</p> <p>2 THE WITNESS: They would own -- they own</p> <p>3 the fifty-seven suites in the Tram Haus Lodge.</p> <p>4 They own the hundred and twenty suites in the</p> <p>5 Hotel Jay, the fifty-five -- actually, fifty-six</p> <p>6 suites in the Penthouse Lodge. They also own the</p> <p>7 ice arena and the parking garage.</p> <p>8 MR. JAMES: Exactly which one is the</p> <p>9 parking garage? Is that in relation to --</p> <p>10 THE WITNESS: It's just above the ice</p> <p>11 arena.</p> <p>12 MR. JAMES: Okay.</p> <p>13 So the two furthest to the left?</p> <p>14 THE WITNESS: Correct.</p> <p>15 MR. JAMES: And what's that -- when you</p> <p>16 come forward in the foreground, what's that?</p> <p>17 THE WITNESS: There?</p> <p>18 MR. JAMES: Yes. What's that?</p> <p>19 THE WITNESS: Those are our</p> <p>20 administrative offices.</p> <p>21 MR. JAMES: Okay.</p> <p>22 THE WITNESS: They're trailers.</p> <p>23 MR. JAMES: That Jay Peak owns. Okay.</p> <p>24 Is that where your office is?</p> <p>25 THE WITNESS: It's where my office is.</p>	<p style="text-align: right;">Page 156</p> <p>1 eastern Canada and in northern New England. And</p> <p>2 as I said, it welcomes -- so we welcome almost</p> <p>3 four hundred thousand visitors a year to this</p> <p>4 facility. And it's an enormous success and very</p> <p>5 important in bringing people to stay in the</p> <p>6 resort.</p> <p>7 And we have multiple hotels and places</p> <p>8 of accommodation. And this is one of the drivers.</p> <p>9 Skiing is a driver. Water park's a driver.</p> <p>10 Conferences, weddings, golf, hockey, all drivers</p> <p>11 of accommodations. And this is a family --</p> <p>12 MR. JAMES: And the water park is part</p> <p>13 of Phase II?</p> <p>14 THE WITNESS: Correct.</p> <p>15 And then the Stateside Baselodge and</p> <p>16 Hotel. And then the reddish barn area is the</p> <p>17 Mountain Adventure Center. And to the left is one</p> <p>18 of the lifts that services the hotel, as well as</p> <p>19 the Mountain Adventure Center. And then that's --</p> <p>20 MS. LAMA: Is the Mountain Adventure</p> <p>21 Center sometimes referred to as the Mountain</p> <p>22 Learning Center?</p> <p>23 THE WITNESS: Yes, it is.</p> <p>24 And this is a view from both directions.</p> <p>25 And then the last pic is the elevation</p>
<p style="text-align: right;">Page 155</p> <p>1 MR. JAMES: Okay.</p> <p>2 In this photo, we do not see Golf and</p> <p>3 Mountain Suites? We don't see Townhouse?</p> <p>4 THE WITNESS: I can get photos of those</p> <p>5 for you.</p> <p>6 MR. JAMES: They're not in these photo</p> <p>7 now --</p> <p>8 THE WITNESS: No. No.</p> <p>9 MR. JAMES: And is this because this</p> <p>10 predates those structures?</p> <p>11 THE WITNESS: No. No. I left, and I</p> <p>12 realized they weren't in there.</p> <p>13 MR. JAMES: Okay.</p> <p>14 THE WITNESS: And I was upset with</p> <p>15 myself that I didn't bring those photos, because</p> <p>16 they're beautiful.</p> <p>17 MR. JAMES: Okay. Keep going.</p> <p>18 THE WITNESS: And then the next photo</p> <p>19 shows the Stateside Baselodge and Hotel. And it</p> <p>20 also shows the Mountain Learning Center.</p> <p>21 MR. JAMES: Okay. I think you may have</p> <p>22 skipped the water park.</p> <p>23 THE WITNESS: I'm sorry. The water park</p> <p>24 is about a sixty-two thousand square foot</p> <p>25 facility. The largest water park of its type in</p>	<p style="text-align: right;">Page 157</p> <p>1 drawing for the bio-science facility in Newport.</p> <p>2 MR. JAMES: So the lower left-hand</p> <p>3 corner, what's being depicted in that photo?</p> <p>4 THE WITNESS: That was an original</p> <p>5 schematic, but we have a new --</p> <p>6 MR. GORDON: He said the lower left</p> <p>7 corner.</p> <p>8 THE WITNESS: Oh, lower left.</p> <p>9 MR. JAMES: That's right.</p> <p>10 THE WITNESS: I'm sorry. I apologize,</p> <p>11 Brian.</p> <p>12 That is the site of where the new</p> <p>13 facility will be built. We purchased that</p> <p>14 building and a twenty-six acre parcel of land on</p> <p>15 which the bio-center will be constructed.</p> <p>16 MR. JAMES: And then the other two</p> <p>17 photos is I guess a --</p> <p>18 THE WITNESS: One is an early rendition.</p> <p>19 The other one is -- the one on the top is the most</p> <p>20 current in the design that we are actually</p> <p>21 building to.</p> <p>22 There's a meeting today actually in</p> <p>23 North Carolina of the architects and our team to</p> <p>24 bring the design -- the design to its point -- the</p> <p>25 point of being able to go to bid and construct.</p>

<p style="text-align: right;">Page 158</p> <p>1 MR. JAMES: So has anything been put out 2 for bid as of yet or constructed? 3 THE WITNESS: We've done some bid work 4 preliminary. We've done some site work. We have 5 done some demolition of the existing building. 6 MR. JAMES: Okay. So this building is 7 no longer -- 8 THE WITNESS: No. Some of them. 9 The interior of this quadrant has been 10 demolished, and we will take down the exterior 11 hopefully within about another month. 12 MR. JAMES: So the portion that appears 13 to be covered with a gray surface -- 14 THE WITNESS: Yes. 15 MR. JAMES: -- the interior of that has 16 been demolished? 17 THE WITNESS: Correct. 18 MR. JAMES: Okay. 19 And then when was that done? Do you -- 20 THE WITNESS: Within the last six weeks. 21 MR. JAMES: Okay. 22 And then the next phase is to demolish 23 the exterior? 24 THE WITNESS: Yeah. And begin 25 construction, I hope, by late summer.</p>	<p style="text-align: right;">Page 160</p> <p>1 that we acquired that parcel, we've done -- 2 there's been utility improvements, IT 3 improvements. We have also gotten that particular 4 facility designated as a free-trade zone, and it 5 is the only free-trade zone in northern Vermont. 6 MR. JAMES: When you say we? 7 THE WITNESS: Well, I mean, our -- I'm 8 part of team that's putting this together. 9 MR. JAMES: Yeah. But Jay Peak or the 10 limited partnership? When you say we, is it the 11 limited partnership has done all this or Jay Peak 12 or GSI has done all of this before selling it to 13 the limited partnership? 14 THE WITNESS: I'm trying to get my 15 terminology correct here. Jay Peak Biomedical 16 Research Facility is quarterbacking the creation 17 of this project. And I interacted with our state 18 officials and our federal officials to get this 19 designated as a free-trade zone. And I'm -- I'm 20 part of that initiative. 21 MR. JAMES: Okay. 22 So the -- I guess my question is: So 23 then you referenced the improvements or 24 enhancements to the value. I'm not sure exactly 25 what synonym you used. But my question is: The</p>
<p style="text-align: right;">Page 159</p> <p>1 MR. JAMES: Okay. 2 And what are you going to do with the 3 remainder of the building? 4 THE WITNESS: That building will be 5 available for assembly and distribution of 6 products and services, or it may also be available 7 for leasing out to a third party, if we so wish. 8 MR. JAMES: Okay. 9 But that would be part of what the AnC 10 Bio investors would own? 11 THE WITNESS: Well, at this point, the 12 investors will own this research facility and the 13 parking around it. That's principally what 14 they'll own. 15 MR. JAMES: Okay. 16 And what about the land? 17 THE WITNESS: They own a parcel of land 18 immediately under the building and initially 19 around it. I don't have the specific acreage, but 20 I think it's five -- five acres or thereabouts. 21 MR. JAMES: Is that the portion that was 22 sold to the limited partnership from GSI of Dade 23 County? 24 THE WITNESS: Yes. Yeah. It's the most 25 valuable spot on the property. Since the time</p>	<p style="text-align: right;">Page 161</p> <p>1 events that have caused, according to your 2 testimony, this parcel to improve in value, were 3 those events, whether expenses or the designation, 4 were those done by the Jay Peak Biomedical 5 Research Park Limited Partnership or were those 6 done by GSI of Dade County or Q Resorts or Jay 7 Peak, Inc., if there's even a distinction for the 8 appropriate designation? 9 THE WITNESS: You know, I'm embarrassed 10 to tell you I'm not sure which hat I was wearing 11 at the time that I worked with the state and 12 federal folks on it. 13 We are involved in trying to develop 14 economic initiatives in our region. This is one 15 of them. We've got a few others. And we're 16 trying to improve the economy in northern Vermont. 17 And this is -- you know, when you're looking at 18 job creation, and going back to my master plan at 19 Jay Peak, those are largely hospitality-driven 20 jobs. 21 In looking at economic development, 22 having the opportunity to have hospitality jobs, 23 which is part of travel, in a bioscience facility 24 that can have a multiplicity of permanent 25 year-round high-tech jobs of different sorts is a</p>

<p style="text-align: right;">Page 162</p> <p>1 huge economic benefit.</p> <p>2 So what we have been doing is trying to</p> <p>3 broaden the spectrum of the economic livelihood of</p> <p>4 that community. I've lived there for thirty years</p> <p>5 in Newport. And so we look at this as a really</p> <p>6 important cornerstone because it provides</p> <p>7 diversity of jobs, higher incomes on average, and</p> <p>8 it's year-round. And it's something that doesn't</p> <p>9 currently exist in the community, so it will be a</p> <p>10 net importer of economic energy.</p> <p>11 So I'm involved in it. Ary Quiros is</p> <p>12 involved in it. Bill Kelly is involved in it. We</p> <p>13 have some very talented science, scientific people</p> <p>14 involved in it, Harvard-educated Ph.D.s in</p> <p>15 bioscience leading the effort. And it's a great</p> <p>16 project.</p> <p>17 MR. JAMES: Okay.</p> <p>18 Miss Fuchs is going to ask you some more</p> <p>19 questions about those particulars, but I just want</p> <p>20 to focus for a quick second on the resale of that</p> <p>21 parcel to the limited partnership. So I</p> <p>22 understand that GSI purchased the entire</p> <p>23 twenty-six acres and then resold it to the limited</p> <p>24 partnership, the six to seven acres that's</p> <p>25 underneath the building?</p>	<p style="text-align: right;">Page 164</p> <p>1 THE WITNESS: Commitment on behalf of</p> <p>2 the State to bring a very high quality IT line to</p> <p>3 the site. This facility requires enormous --</p> <p>4 relatively speaking, enormous IT capacity beyond</p> <p>5 which is there now. But we have a new high speed</p> <p>6 and high capacity IT line coming to the site and</p> <p>7 that has enhanced the value substantially.</p> <p>8 We'll be putting in -- getting a new</p> <p>9 water line and sewer line to the site, which is</p> <p>10 committed to by the community. But you've got IT,</p> <p>11 sewer, water, free-trade zone, and this happens to</p> <p>12 be the most beneficial and valuable part of the</p> <p>13 twenty-six acres.</p> <p>14 MR. JAMES: Why is that? Because it's</p> <p>15 cleared --</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. JAMES: -- or was that done by --</p> <p>18 THE WITNESS: Yeah, it's cleared. It's</p> <p>19 the high point of the twenty-six acres. It has</p> <p>20 the best views of the lake in the background;</p> <p>21 although, that's not necessarily relevant to</p> <p>22 the -- but it -- you know, it is the best. If I</p> <p>23 were to say out of the twenty-six acres, give me</p> <p>24 the six best acres, it would be those.</p> <p>25 MR. JAMES: Okay.</p>
<p style="text-align: right;">Page 163</p> <p>1 THE WITNESS: Uh-huh.</p> <p>2 MR. JAMES: Sorry. You have to say yes</p> <p>3 or no.</p> <p>4 THE WITNESS: Yes.</p> <p>5 MR. JAMES: So my question is: Were you</p> <p>6 involved in that resale, the resale of that seven</p> <p>7 acres to the Jay Peak Biomedical Research Limited</p> <p>8 Partnership? Were you involved in that?</p> <p>9 THE WITNESS: I was aware of it. You</p> <p>10 know, the particular creation of the documents and</p> <p>11 the plot lines and so forth, I was aware that it</p> <p>12 was taking place and understand it. And</p> <p>13 understand that between the time we bought it or</p> <p>14 it was purchased and transferred, that substantial</p> <p>15 improvements were made.</p> <p>16 MR. JAMES: That was going to be my</p> <p>17 question. Can you tell me about those?</p> <p>18 THE WITNESS: Well, the free-trade zone</p> <p>19 designation is enormous.</p> <p>20 MR. JAMES: Okay. So that happened</p> <p>21 before it was resold to the limited partnership?</p> <p>22 THE WITNESS: It happened -- it happened</p> <p>23 before the -- it was sold, yes.</p> <p>24 MR. JAMES: What else? What other</p> <p>25 improvements?</p>	<p style="text-align: right;">Page 165</p> <p>1 Do you know whether or not an appraisal</p> <p>2 was done in connection with valuing that piece</p> <p>3 of --</p> <p>4 THE WITNESS: I don't -- I don't believe</p> <p>5 there was, because they're wouldn't be anything</p> <p>6 comparable.</p> <p>7 MR. JAMES: That was going to be my</p> <p>8 question.</p> <p>9 THE WITNESS: No, there's no comparable</p> <p>10 to this. This is a unique thing, a really unique</p> <p>11 thing.</p> <p>12 MS. LAMA: How was the value assigned?</p> <p>13 THE WITNESS: I don't know the answer to</p> <p>14 that.</p> <p>15 MS. LAMA: Who was involved in assigning</p> <p>16 a value?</p> <p>17 THE WITNESS: I'm not sure who in our</p> <p>18 team assigned a value on it.</p> <p>19 MR. JAMES: Do you know who represented</p> <p>20 the limited partnership in the purchase sale</p> <p>21 transaction?</p> <p>22 THE WITNESS: I'm not -- I'm not sure</p> <p>23 who represented us, meaning the limited</p> <p>24 partnership, because I'm part of that. I know</p> <p>25 that Mark Scribner and I believe Bill Kelly were</p>

<p style="text-align: right;">Page 166</p> <p>1 involved in the transfer or the sale of --</p> <p>2 MR. JAMES: On behalf of GSI or on</p> <p>3 behalf of the limited partnership?</p> <p>4 THE WITNESS: Brian, I'm sorry. I don't</p> <p>5 know the particulars of that. I could certainly</p> <p>6 get that information for you.</p> <p>7 MR. JAMES: Do you have any recollection</p> <p>8 or do you recall receiving power of attorney from</p> <p>9 Mr. Quiros for you to be the signer on behalf of</p> <p>10 GSI of Dade County in connection with that?</p> <p>11 THE WITNESS: I don't recall. No, I</p> <p>12 don't.</p> <p>13 MR. JAMES: Okay.</p> <p>14 Any recollection as far as you being on</p> <p>15 the GSI Dade County seller side also being the</p> <p>16 representative for the limited partnership as the</p> <p>17 general partner on the buyer's side? Do you</p> <p>18 recall that?</p> <p>19 THE WITNESS: I don't recall being on</p> <p>20 both sides of that. I'm trying to coordinate the</p> <p>21 creation of this facility. Yeah.</p> <p>22 BY MS. FUCHS-SINDLER:</p> <p>23 Q Do you know what the cost of the</p> <p>24 improvements that you just described to the land,</p> <p>25 do you know what the cost came to?</p>	<p style="text-align: right;">Page 168</p> <p>1 THE WITNESS: Well, I -- that's where I</p> <p>2 have to catch myself here a little bit, because</p> <p>3 I'm involved in the formulation of this.</p> <p>4 The limited partners of this project are</p> <p>5 going to own the building, and they're going to</p> <p>6 own, you know, what transpires there. And the</p> <p>7 benefit of this building's quality and</p> <p>8 characteristics are -- they're enhanced by the</p> <p>9 utilities that come to it, whether it's sewer,</p> <p>10 water, or IT.</p> <p>11 MR. JAMES: And just while Ms. Sindler</p> <p>12 is getting the exhibits in order, going back to</p> <p>13 Exhibit No. 98, you may have said this, but these</p> <p>14 are present pictures? These are pictures taken</p> <p>15 when? How recent are they?</p> <p>16 THE WITNESS: Within the last probably</p> <p>17 twelve months.</p> <p>18 MR. JAMES: Okay.</p> <p>19 So this is the state of these different</p> <p>20 projects as recent as the last --</p> <p>21 THE WITNESS: These are contemporary.</p> <p>22 This -- this was open on December 20th of this</p> <p>23 past year.</p> <p>24 MR. JAMES: Okay. And by this, are you</p> <p>25 referring to --</p>
<p style="text-align: right;">Page 167</p> <p>1 A The cost or the value?</p> <p>2 Q The cost of the improvements made.</p> <p>3 A I don't -- I'd have to do a breakdown of</p> <p>4 the sewer, water, and IT from the physical side.</p> <p>5 And then there's the free-trade zone value, which,</p> <p>6 you know, we believe is very substantial.</p> <p>7 I don't know how you assign the value of</p> <p>8 that since there isn't one in northern Vermont.</p> <p>9 But there is a very detailed explanation available</p> <p>10 for what the value is of that and why it has high,</p> <p>11 high value.</p> <p>12 MS. LAMA: And I think we may have asked</p> <p>13 before, and I apologize if we did, but who paid</p> <p>14 for those improvements?</p> <p>15 THE WITNESS: Those -- the IT benefit is</p> <p>16 coming from the State. The water line will be put</p> <p>17 in by us, by the project. And the sewer line is</p> <p>18 being done by the community. But they're doing it</p> <p>19 because of this project. I mean, the fact that</p> <p>20 there's a substantial enhancement of value of this</p> <p>21 site by having the utilities upgraded very</p> <p>22 substantially and the free-trade zone being</p> <p>23 established.</p> <p>24 MS. LAMA: And a moment ago you said us.</p> <p>25 Who is the us?</p>	<p style="text-align: right;">Page 169</p> <p>1 THE WITNESS: Stateside Hotel.</p> <p>2 MR. JAMES: Okay.</p> <p>3 THE WITNESS: The water park was opened</p> <p>4 November 2011. Hotel Jay opened same time.</p> <p>5 MR. JAMES: So these are pictures --</p> <p>6 THE WITNESS: These are --</p> <p>7 MR. JAMES: -- at each particular</p> <p>8 project's point in time at completion, or were</p> <p>9 these taken the same day each project or around</p> <p>10 the same time?</p> <p>11 THE WITNESS: I don't know the date of</p> <p>12 the photo being taken. I can tell you that they</p> <p>13 are absolutely representative of the finished</p> <p>14 product of each, and I'm only sorry I didn't bring</p> <p>15 the Golf and Mountain and Lodge and Townhouse. I</p> <p>16 can get them for you, and they are every bit as</p> <p>17 attractive as this.</p> <p>18 MR. JAMES: Can we? Can we request?</p> <p>19 THE WITNESS: I sure can. I sure can.</p> <p>20 MS. LAMA: And what you just described</p> <p>21 as the projects in their completed state, that</p> <p>22 would be, of course, except for AnC Bio, which is</p> <p>23 a conceptual design on the last page?</p> <p>24 THE WITNESS: Michelle, that's</p> <p>25 correct.</p>

Page 170

1 (SEC Exhibit Nos. 99 and 100
2 were marked for
3 identification.)
4 BY MS. FUCHS-SINDLER:
5 **Q I'm handing you what's been marked as --**
6 THE WITNESS: Let me make a note to send
7 you the photos, but that would be helpful if you
8 could give me a card at some point, so I can
9 email --
10 MR. GORDON: Just give them to me. I'll
11 send them.
12 THE WITNESS: All right.
13 Would you like me to text the request
14 for them now, so you can have them before we
15 leave?
16 MR. JAMES: That's not necessary.
17 THE WITNESS: I'm happy to.
18 MR. JAMES: If we have a break and you
19 feel like it.
20 THE WITNESS: All right. I'll do that.
21 MR. JAMES: You can send them to David.
22 THE WITNESS: Okay.
23 BY MS. FUCHS-SINDLER:
24 **Q Mr. Stenger, I'm handing you what's been**
25 **marked as Exhibit Nos. 99 and 100. Exhibit 99**

Page 171

1 appears to be a copy of a Purchase and Sale
2 Agreement, dated July 21st, 2011 between GSI Dade
3 County, and it says James Mulkin and Mary Ann
4 Mulkin and Fred --
5 A Mary Ann Mulkin?
6 **Q Mulkin.**
7 A And Fred Oeschger.
8 **Q Oeschger. Thank you.**
9 And then Exhibit No. 100 appears to be a
10 copy of a Purchase and Sale Agreement between GSI
11 Dade County and Jay Peak Biomedical Research Park.
12 Do you recognize these documents?
13 And if you look at Exhibit 100 and you
14 go to what's been Bates stamped JPI-087117, it
15 appears to have your signature on behalf of Jay
16 Peak Biomedical Research Park, LP by AnC Bio
17 Vermont, GP Service's General Partner. Do you see
18 that?
19 A I do.
20 **Q And is that your signature?**
21 A It is.
22 **Q And then you see it appears to have Mr.**
23 **Quiros's signature on behalf of GSI Dade County?**
24 A Correct.
25 **Q And is that his signature?**

Page 172

1 A It appears to be, yes.
2 **Q And you recognize his signature?**
3 A Yeah, pretty much.
4 **Q And you've seen it multiple times; is**
5 **that correct?**
6 A Yes.
7 **Q Okay.**
8 And are these the agreements that we
9 were referencing before when we were talking about
10 the acreage, the Exhibit No. 99, it appears to be
11 about over twenty-five acres with a purchase price
12 of three point one five million?
13 A Uh-huh.
14 **Q And that's what we were talking about**
15 **before when we looked at the picture in Exhibit**
16 **No. 98, the last page, and you showed us the land?**
17 A That's correct.
18 **Q Okay. And then if you look at Exhibit**
19 **No. 100, which appears to be the sale of,**
20 **approximately, seven -- approximately, seven**
21 **acres, and you were describing to us where that**
22 **land was. Does that appear to be the agreement**
23 **pursuant to which we were talking before?**
24 A Yes, it is.
25 Would you like these back?

Page 173

1 **Q You know, you could stack them there,**
2 **and when we leave, we'll get all the exhibits.**
3 A Okay.
4 MS. LAMA: Prior to executing this
5 agreement in Exhibit 100 for the purchases of
6 property, did you have any discussions with Mr.
7 Quiros about the six million that was going to be
8 paid for the land?
9 THE WITNESS: I don't know that we
10 discussed the number six million, but we certainly
11 discussed the improvements that were going to be
12 made to the property and the benefit that would
13 come to the project as a result of what we had
14 organized to take place or what was organized to
15 take place in terms of utility improvements and
16 the designation of the free-trade zone and that
17 they had substantial value.
18 BY MS. FUCHS-SINDLER:
19 **Q How was the six million figure arrived**
20 **at?**
21 A I don't know the precise answer to
22 that, why would it be six million and not five
23 nine ninety-nine or six zero five, six million
24 fifty -- I don't know a number was ascribed to it,
25 because we were looking at the overall project and

<p style="text-align: right;">Page 174</p> <p>1 you have land value, you have construction, you 2 have technology-related value. I mean, 3 it's a pretty all encompassing, you know, 4 budgetary approach, and the land value is one 5 element of it.</p> <p>6 Q But who made the determination that it 7 would be a six million dollar figure?</p> <p>8 A I'm not sure who picked that number.</p> <p>9 Q Did you? Did you?</p> <p>10 A I didn't pick it, no.</p> <p>11 Q Would it have been --</p> <p>12 A It might've been a combination of -- of 13 a -- you know, I'm speculating. I'm speculating. 14 I don't know who precisely picked that. I know 15 the budget was put together for the project, and 16 it had different elements to it.</p> <p>17 And the land value, yeah, the land -- 18 there was definitely an increase from the purchase 19 initially to the sale, but there was also -- it 20 was going from an old clothing manufacturing 21 facility that had laid empty to what was going to 22 be a new state-of-the-art world-class bioscience 23 facility that had very high quality utilities and 24 a designation of a free-trade zone that's located 25 two miles from the Canadian border and ninety</p>	<p style="text-align: right;">Page 176</p> <p>1 (SEC Exhibit No. 101 was 2 marked for identification.)</p> <p>3 BY MS. FUCHS-SINDLER:</p> <p>4 Q The court reporter's just marked as 5 Exhibit No. 101 a two-page document. It appears 6 to be a power of attorney for real estate 7 transactions only. Do you recognize this 8 document? And it appears to be dated 9 September 14th, 2011 and signed by Ariel Quiros.</p> <p>10 A Okay. I've read it.</p> <p>11 MR. JAMES: Have you seen Exhibit No. 12 101 before?</p> <p>13 THE WITNESS: Well, since I signed the 14 document and that is my signature, I would say, 15 yes, I've seen it.</p> <p>16 MR. JAMES: Okay.</p> <p>17 And earlier I had asked you about being 18 given power of attorney by Mr. Quiros to represent 19 GSI in the acquisition of this property from the 20 Bogners. Do you remember --</p> <p>21 THE WITNESS: No. From Fred Oeschger 22 and Mary Ann and Jim Mulkin.</p> <p>23 MR. JAMES: Yes. Yes. The Bogners are 24 the sellers?</p> <p>25 THE WITNESS: The sellers, yeah.</p>
<p style="text-align: right;">Page 175</p> <p>1 minutes from Montreal.</p> <p>2 One of the things that is important to 3 value here is that we are -- Newport, Vermont is 4 located literally on the border of Canada and 5 ninety minutes from Montreal, which is the largest 6 bioscience city in Canada, and three and a half 7 hours from Boston, which is the largest bioscience 8 city in the United States.</p> <p>9 And we have this campus and this new 10 facility with a designated free-trade zone, and 11 the only one in Vermont. And it has, we feel, 12 great commercial value. And also has a technology 13 component coming, from an IT standpoint, to the 14 site that makes it world class.</p> <p>15 Q GSI Dade County, is that Mr. Quiros's 16 company?</p> <p>17 A Yes.</p> <p>18 Q So can you think of anyone, other than 19 Mr. Quiros, who would've come up with that six 20 million dollar figure?</p> <p>21 A I don't know who else might've. It 22 might've been a combination of him and Ike Lee, 23 who is the CEO of AnC Bio Vermont, or Bill Kelly, 24 or, you know, it might've been a combination of 25 folks.</p>	<p style="text-align: right;">Page 177</p> <p>1 MR. JAMES: Okay.</p> <p>2 So does this appear to be the document 3 that gave you the authority to act on behalf of 4 GSI --</p> <p>5 THE WITNESS: Yeah. I think -- I -- I'm 6 sorry. I apologize.</p> <p>7 MR. JAMES: -- in connection with GSI's 8 purchases of that property, not its resale to the 9 limited partnership, but its purchase?</p> <p>10 THE WITNESS: I remember the closing. It 11 was held in Robert Chmielewski's office in 12 Newport, Vermont. I found this parcel of land and 13 building. I know these people.</p> <p>14 Newport, Vermont is a city of five 15 thousand people. And Fred Oeschger and Jim Mulkin 16 are business people in the community. They bought 17 the Bogner facility from the Bogner of North 18 America Company.</p> <p>19 I was looking for, on behalf this 20 project, a site for the AnC Bio initiative. 21 Brought the parties together, made an offer. They 22 accepted, ultimately, after a lot of negotiations, 23 the offer.</p> <p>24 And at the time of the closing, Ary was 25 not able to personally be there. I live in</p>

<p style="text-align: right;">Page 178</p> <p>1 Newport and work at Jay Peak, and I'm -- so it was 2 convenient for me and him to have me represent him 3 at the closing, and that's what I did. 4 MR. JAMES: At that time, was it already 5 contemplated that the property would then be 6 resold to the limited partnership, as you stated 7 that you were looking for a site for the AnC Bio 8 project? 9 THE WITNESS: When we were looking at 10 the site, we had a vision of bringing a technology 11 company to that site, this project. At the time 12 we purchased it, we weren't sure what if -- what 13 else we might do. But after we purchased it and 14 we began to formulate the specific plans for the 15 AnC Bio Vermont facility, we called, asked around 16 the idea of creating the specific site that 17 represents the seven some acres that you described 18 a minute ago and the actual building that the 19 design was shared a moment ago. 20 At the time of the closing, we did not 21 have a precise final idea of what might happen and 22 how many acres would be carved out, if any, and 23 what would the ultimate configuration be. It 24 was -- it was -- there were not a lot of sites in 25 the city of Newport that were big enough and --</p>	<p style="text-align: right;">Page 180</p> <p>1 products and devices that we have acquired 2 technology rights to, some heart lung machine, 3 some -- a portable dialysis equipment, a host of 4 different types of products. The stem cell 5 technology is the second line of business, and 6 that is largely focused around the creation of 7 tissue-related products that can be helpful in 8 surgeries, burn situations, cardiac regeneration, 9 bone regeneration as a whole product line. 10 Thirdly, the clean rooms, we will have, 11 approximately, fifty clean rooms within the 12 facility. And a clean room is a facility that can 13 be anywhere from the size of a room like this to 14 something that could be considerably bigger. And 15 it is an absolutely pure, clean environment in 16 which a company, a college or university can do 17 research. The facility will be built to FDA Class 18 I standards with FDA Class I approval 19 consideration -- not consideration, but assurance. 20 And we believe and know from our technology 21 partners and resources that there is a pronounced 22 shortage of clean rooms in, not only the United 23 States, but worldwide. 24 Bioscience is the fastest growing 25 industry in the world. And the market for the</p>
<p style="text-align: right;">Page 179</p> <p>1 and that would bring with that the kind of 2 community support that this site brought. 3 So we -- another thing that we -- 4 although we haven't negotiated it yet, we have 5 every belief that the site will benefit 6 substantially from tax credits and tax 7 considerations at the local level because of the 8 job creation that will take place. We don't have 9 that officially from the City Counsel, but they 10 have indicated that because there are so many jobs 11 going to be created as a result of the project, 12 that there may very well be some substantial tax 13 considerations given to it. 14 BY MS. FUCHS-SINDLER: 15 Q With the AnC Bio project, can you tell 16 us a little bit how it works with the manufacture 17 of the products? 18 A I can tell you that there are three -- 19 three important components of what our 20 developmental vision is in this facility. One is 21 the assembly and distribution of medical devices. 22 Two is the development of stem cell related 23 products. And, third, the creation and operation 24 of clean rooms. 25 The first refers to products, medical</p>	<p style="text-align: right;">Page 181</p> <p>1 products and services of the bioscience industry 2 are some of the fastest growing markets in the 3 world. 4 And there are companies of medium and 5 small size that do not have affordable clean room 6 technology access. They may have an opportunity 7 to partner with an Merck or a Novo Novartis or a 8 Pfizer, but their ability to do so and retain the 9 ownership of their technology is remote. Merck is 10 happy to take the science of various people and 11 let them do their research in their facilities, 12 but they do so with a cost such as ownership or 13 maybe a substantial part of ownership. 14 The market niche we feel is definitely 15 going to be responsive to this are colleges, 16 universities, smaller companies that have 17 technology and have ideas, but not necessarily 18 affordable places in which to do the research. 19 That is what we will also offer in addition to the 20 manufacture and distribution of products, the stem 21 cell line, and the clean room operations. 22 Q And the devices you just talked about 23 and the stem cell and the clean rooms, that 24 requires FDA approval; is that correct? 25 A Certainly. Yeah.</p>

<p style="text-align: right;">Page 182</p> <p>1 Q Okay.</p> <p>2 A Now, may I finish?</p> <p>3 Q Okay.</p> <p>4 A I'm sorry. I wanted to make the point</p> <p>5 that the clean rooms will be built to FDA</p> <p>6 specifications. And the architectural firm, NNE</p> <p>7 Pharmaplan, is designing the facility in a manner</p> <p>8 that if built to their specifications, which are</p> <p>9 FDA approved, the clean rooms will be FDA</p> <p>10 compliant.</p> <p>11 The product -- we are about -- and I had</p> <p>12 the conversation last evening with Ike Lee, our</p> <p>13 CEO, about the FDA protocol beginning on our first</p> <p>14 products, because we're about eighteen months away</p> <p>15 from the opening of the facility, and we have to</p> <p>16 get engaged right away with the FDA for the first</p> <p>17 product lines that we are intending to produce</p> <p>18 there. Because it will take -- it will take at</p> <p>19 least two years to get certain things through, and</p> <p>20 it may take longer in some of the product lines.</p> <p>21 Q You said to get certain things through,</p> <p>22 what are you talking about?</p> <p>23 A Well, you mentioned FDA approval.</p> <p>24 Q Yes.</p> <p>25 A That's what I'm referring to.</p>	<p style="text-align: right;">Page 184</p> <p>1 A I was reaching out to her as someone who</p> <p>2 could give us some guidance.</p> <p>3 Q And this was back in June --</p> <p>4 A This was back in June when I was</p> <p>5 actually down in the Washington, DC area for a</p> <p>6 conference. I was attempting to reach out to her</p> <p>7 and get together with her to get some assistance.</p> <p>8 Q Okay.</p> <p>9 A At the same time, I also reached out to</p> <p>10 Senator Leahy's staff director to get some</p> <p>11 assistance from him in getting the -- you know,</p> <p>12 the items together that were necessary.</p> <p>13 She gave me some feedback. It was clear</p> <p>14 that -- and it was clear from Senator Leahy's</p> <p>15 staff that we would be advised to hire a third</p> <p>16 party to help us help shepherd some of this</p> <p>17 through, especially the product side.</p> <p>18 So, you know, that's one of the things</p> <p>19 that, you know, I'm acknowledging to you, that we</p> <p>20 have not gotten FDA approval on the products, and</p> <p>21 it's going to take sometime to do it. And now</p> <p>22 that we have a facility designed, and we have a</p> <p>23 product mix that we are prioritizing, and we have</p> <p>24 I think some very highly competent people to help</p> <p>25 guide us through it, that we will be initiating</p>
<p style="text-align: right;">Page 183</p> <p>1 Q Okay.</p> <p>2 And Ike Lee, you said, is our CEO?</p> <p>3 A Correct.</p> <p>4 Q Of which entity?</p> <p>5 A Of AnC Bio Vermont.</p> <p>6 I can send you -- with the pictures, I</p> <p>7 can send you his background and his information.</p> <p>8 Q Have you been in touch with the FDA?</p> <p>9 A I was in touch with the FDA probably a</p> <p>10 little over a year ago.</p> <p>11 (SEC Exhibit No. 102 was</p> <p>12 marked for identification.)</p> <p>13 BY MS. FUCHS-SINDLER:</p> <p>14 Q The court reporter has just marked as a</p> <p>15 Composite Exhibit 102 emails between -- it appears</p> <p>16 to be between you and Aileen Velez Cabassa --</p> <p>17 A Uh-huh.</p> <p>18 Q -- as DMSA at the FDA?</p> <p>19 A Right.</p> <p>20 Q They're two separate emails, but they're</p> <p>21 both sent very close in time on June 2nd, 2010.</p> <p>22 Do you recognize both these emails?</p> <p>23 A I do.</p> <p>24 Q Okay.</p> <p>25 Can you tell me what they were about?</p>	<p style="text-align: right;">Page 185</p> <p>1 anew the FDA aspect of this.</p> <p>2 But at this particular time, the clean</p> <p>3 room program was not as significant a part of our</p> <p>4 plan as it is today. And that, if we build the</p> <p>5 facility to the FDA specifications that they</p> <p>6 require, we will be approved. If we don't build</p> <p>7 it to the FDA specifications, there's every</p> <p>8 likelihood we won't be approved.</p> <p>9 Q Approved for the clean rooms?</p> <p>10 A For the clean rooms.</p> <p>11 Q Not for the devices or any --</p> <p>12 A That's correct. You know, each business</p> <p>13 line that I described has its own particular</p> <p>14 protocols.</p> <p>15 Q And when you had just mentioned you were</p> <p>16 advised to hire a third party, was that for the</p> <p>17 clean rooms you're talking about?</p> <p>18 A No. No. For the whole interaction with</p> <p>19 FDA.</p> <p>20 Q Okay.</p> <p>21 And has that been done?</p> <p>22 A We have -- we have our own executives.</p> <p>23 We have not hired a third party yet. But as I</p> <p>24 said to you, last evening, I spoke with Ike about</p> <p>25 the importance. Because they're meeting in North</p>

<p style="text-align: right;">Page 186</p> <p>1 Carolina right now to finalize the design, and 2 we're now at a point where we can take that final 3 design and actually show it to someone at FDA and 4 say, this is what we're building. And if we can 5 certify that this building is, indeed, what comes 6 out, how do we propose to proceed with these other 7 things.</p> <p>8 Q So right now there's no FDA approval 9 pending?</p> <p>10 A No. No. But there's a strategy for 11 each of the three business lines. And the clean 12 rooms are a very important part of what we plan to 13 do from a job creation standpoint and an 14 operational standpoint. But, no.</p> <p>15 So are there -- you know, this is -- 16 this a copy of a communication that I had with the 17 FDA. Yeah. It's back in 2010. I've been -- I've 18 been involved with a few other things since 2010, 19 and this has been one of them.</p> <p>20 And one of the things that I would share 21 with you is, I mentioned this economic initiative. 22 We've got projects in various degrees of 23 evolution. This project is now becoming a front 24 burner project because the Jay Peak projects are 25 nearing their completion. I mentioned earlier</p>	<p style="text-align: right;">Page 188</p> <p>1 Senator Leahy's team about what they were 2 recommending we do. They gave me some names and 3 addresses of good firms that are in the business 4 of helping companies through FDA.</p> <p>5 Now, since this time, we also have hired 6 Ike Lee, who is eminently familiar with FDA 7 protocol. Now, he won't quarterback it alone 8 either, but he will be part of the team that will.</p> <p>9 So I'm telling you the story of how and 10 what, but, you know, this is -- this is what we -- 11 what we did and -- also, if I were going to sit 12 down with them, I would've needed to have a 13 substantive design of the building, and I didn't 14 have that.</p> <p>15 Again, I listened to the advice I got 16 in -- from the Leahy team. But we have also come 17 a very long way since then in developing the 18 business line, the building design, and the 19 understanding of what we need to do to get it 20 where it needs to go.</p> <p>21 Q Who worked on the offering memorandum 22 for AnC Bio?</p> <p>23 A A team of people. Our attorneys, our 24 bioscience leadership, Ike Lee, Dr. Jake Lee. You 25 know, in Korea, there aren't an awful lot of last</p>
<p style="text-align: right;">Page 187</p> <p>1 today that we're about the eighty-fifth percentile 2 of all of our Jay Peak work. This is our next 3 economic development initiative.</p> <p>4 Q Was there ever a meeting with the FDA?</p> <p>5 A A personal meeting? No. I spoke with 6 her.</p> <p>7 Q If you look at ANCBIO-004186, which is 8 part of Exhibit 102, Ms. Velez Cabassa mentioned 9 if you're interested in coming into the FDA to 10 discuss your device, you could request to set up a 11 meeting. Was there ever a meeting?</p> <p>12 A There wasn't. And here's -- what I -- I 13 mentioned Senator Leahy's people. At this 14 particular time, when I was in Washington, I met 15 with Senator Leahy's staff, and they have a person 16 on the staff who specifically works with 17 health-related issues and projects, whether it's a 18 hospital or a bioscience facility.</p> <p>19 They strongly recommended to me, the 20 nice guy ski area operator from Vermont, Bill, 21 don't try to quarterback this thing through the 22 FDA yourself. And I listened to them.</p> <p>23 So as much as she offered to meet with 24 us -- and she was only the gatekeeper. She's not 25 the approval person. And I learned more from</p>	<p style="text-align: right;">Page 189</p> <p>1 names, believe it or not. There's lots of Dr. 2 Lees. We have two of them in the same company.</p> <p>3 MR. JAMES: And they're out of North 4 Carolina or --</p> <p>5 THE WITNESS: No. That's NNE Pharmaplan 6 is the architect.</p> <p>7 MR. JAMES: Okay.</p> <p>8 THE WITNESS: They're out of New York 9 and North Carolina and other cities. They're one 10 of the largest bioscience architectural firms in 11 the world.</p> <p>12 MR. JAMES: Okay.</p> <p>13 THE WITNESS: And Ike Lee is a Ph.D. 14 bioscience doctor educated at Harvard. Jake Lee 15 is a specialist in the TPLS pump device and other 16 blood-related filtering systems. He is doing his 17 research now on our behalf at the University of 18 Vermont in Burlington. He did some of his 19 graduate and Ph.D. work at the University of 20 Wisconsin and University of Michigan. They were 21 instrumental in the science part of the offering.</p> <p>22 Mark Scribner, our corporate attorney, 23 and Bill Kelly assisted in the formulation of some 24 aspects of the business plan. But it was a 25 collaborative effort.</p>

<p style="text-align: right;">Page 190</p> <p>1 MR. JAMES: What about yourself, what 2 was your role? 3 THE WITNESS: I participated in the 4 meetings. I know the community. I know the 5 academic community in Vermont. And I'm involved 6 in helping facilitate the product -- the project 7 rather. 8 MR. JAMES: Did you make any edits or 9 revisions to the offering documents before they 10 were finalized? 11 THE WITNESS: I'm not sure how many 12 edits I might've made. I know that I read it, and 13 I looked mostly at the business plan and various 14 physical aspects of the building. But, you know, 15 I'm first to say, I'm not a Ph.D. in bioscience, 16 and Ike and Jake are. 17 And my biggest interest in the business 18 plan is this important point, is there market 19 demand for the products and services? Because if 20 there is market demand for the products and 21 services, the business will be successful, the 22 jobs will be created, and they'll be retained. And 23 it's the same philosophy at Jay Peak. Is there 24 market demand for the product and service we're 25 offering? If there's not, we shouldn't do it. We</p>	<p style="text-align: right;">Page 192</p> <p>1 THE WITNESS: I suspect he did. I 2 suspect he did. But he has a longer term history 3 with the bioscience industry. 4 MR. JAMES: How so? 5 THE WITNESS: Well, he has a history of 6 relationship with -- with bioscience. 7 MR. JAMES: I'm saying, can you -- 8 THE WITNESS: In Korea, AnC Bio Korea. 9 MR. JAMES: Okay. 10 THE WITNESS: Yeah. 11 MR. JAMES: So his relationship through 12 that company is what you're referring to as far as 13 his long history of -- 14 THE WITNESS: That's right. 15 MR. JAMES: And do you know whether he 16 improved the AnC Bio offering documents before 17 they were finalized? 18 THE WITNESS: I suspect he saw them 19 before they were finalized. Then we kind of 20 coalesced around a set of documents that we felt 21 were correct. 22 MR. JAMES: Okay. 23 I think in the other project you 24 mentioned Mr. Hulme. Was he involved in the 25 creation of the offering documents for the earlier</p>
<p style="text-align: right;">Page 191</p> <p>1 should not do it. 2 In the case of AnC Bio, we believe that 3 there is -- because of the diversity of the three 4 different things we're doing, that there's market 5 demand for all three. Some are going to take a 6 little longer to get to, but we'll get there. But 7 there will be some immediate financial benefit 8 because of the fact that there is a -- in the case 9 of clean rooms, there's a pronounced shortage of 10 clean rooms in North America. 11 MR. JAMES: But as to the actual 12 offering memorandum itself, did you contribute to 13 any of the language actually in the memo, the 14 offering memo? 15 THE WITNESS: Yeah, I did. I'm not 16 going to say I'm the author of it, but I reviewed 17 it. You know, when we put something like this 18 together, we all look at it. We see if there's 19 anything that really doesn't feel right. 20 And most importantly in the case of the 21 science part, it's really our scientific team that 22 passes muster. I'm never going to try to claim 23 that I'm a bioscience specialist. 24 MR. JAMES: What about Mr. Quiros, did 25 he have any input on the documents for AnC Bio?</p>	<p style="text-align: right;">Page 193</p> <p>1 projects? 2 THE WITNESS: He was involved with the 3 offering documents for the earlier projects, yeah. 4 MR. JAMES: But not for AnC Bio? 5 THE WITNESS: No. 6 MR. JAMES: Okay. 7 Did he leave shortly before -- 8 THE WITNESS: We had a separation on 9 January, February of 2012. 10 MR. JAMES: Okay. So that's around the 11 time he left? 12 THE WITNESS: Yeah, it's about the time 13 that we separated the relationship. 14 MR. JAMES: And the AnC Bio, those 15 offering documents, when did that subscription 16 period begin? Is it prior to that separation? 17 THE WITNESS: I'm not -- I'd have to 18 took at the -- oh, I'm sure it was after that. I'd 19 have to look at the dates. 20 MR. JAMES: Okay. 21 Do you send out the offering documents 22 now that Mr. Hulme has left? So when an 23 investor's interested in investing in AnC Bio, 24 whether directly or through their immigration 25 counsel, do they contact you and then you send</p>

<p style="text-align: right;">Page 194</p> <p>1 them an offering --</p> <p>2 THE WITNESS: They must establish a</p> <p>3 relationship with us before we'll do anything. And</p> <p>4 the first step that we always go through is,</p> <p>5 someone will reach out to us, and they'll express</p> <p>6 an interest.</p> <p>7 Then we will send them a business</p> <p>8 summary, but we'll also ask them to register their</p> <p>9 name, address, and, you know, their background --</p> <p>10 not background, but where they're located from,</p> <p>11 and if they're actually requesting of us</p> <p>12 information.</p> <p>13 We give them a very general overview and</p> <p>14 invite them to explore further if they want. If</p> <p>15 they then request an offering document and sample</p> <p>16 documents, the subscription agreement, we'll send</p> <p>17 them to them electronically, so they can review</p> <p>18 them. If they want to come to Vermont and see the</p> <p>19 project and visit and physically review it, we'd</p> <p>20 offer that to them as well.</p> <p>21 MR. JAMES: And then when you say we,</p> <p>22 who actually sends this email attaching the</p> <p>23 offering documents?</p> <p>24 THE WITNESS: One of my staff members.</p> <p>25 MR. JAMES: But with your authorization?</p>	<p style="text-align: right;">Page 196</p> <p>1 involved with our state in trying to create what</p> <p>2 we call a team economy, travel, education,</p> <p>3 agriculture, and manufacturing.</p> <p>4 And you won't find this in a lot of</p> <p>5 places, but the folks that are involved in these</p> <p>6 initiatives, my staff at Jay Peak, Ary's belief in</p> <p>7 Vermont, our governor, our senators. We're a</p> <p>8 small state, six hundred thousand people. That's</p> <p>9 all we have in Vermont. We also have the poorest</p> <p>10 community in the state, our county.</p> <p>11 So we're trying to create the team</p> <p>12 economy in our own little county. Travel,</p> <p>13 education, agriculture, and manufacturing. This</p> <p>14 is a great example of the education and the</p> <p>15 manufacturing part of the team economy.</p> <p>16 So is it different than our ski area</p> <p>17 activity and our hospitality? Of course, it is.</p> <p>18 But I go back to that core point I made a minute</p> <p>19 ago, if there's market demand, there's no reason</p> <p>20 why it can't be successful. And so long as we</p> <p>21 build quality facilities, hire quality people, I</p> <p>22 believe we're going to be successful.</p> <p>23 Now, the offering documents were created</p> <p>24 in consort with Mark Scribner. I'm sure if you</p> <p>25 were to talk to Mr. Hulme, and I suspect given</p>
<p style="text-align: right;">Page 195</p> <p>1 THE WITNESS: Yeah. Yeah. But only</p> <p>2 within the context of what I just mentioned.</p> <p>3 MR. JAMES: Again, Mr. Quiros, he's not</p> <p>4 involved in communications with potential</p> <p>5 investors?</p> <p>6 THE WITNESS: No. I'm pretty much</p> <p>7 quarterbacking with the outreach for the various</p> <p>8 projects that we have and interact with the</p> <p>9 investors and welcome them to Vermont and show</p> <p>10 them what we've done, show them what we're</p> <p>11 planning to do.</p> <p>12 And if there are any questions that they</p> <p>13 have that we cannot personally answer, we connect</p> <p>14 them with Ike or with Jake Lee, Dr. Leas, and try</p> <p>15 to give them whatever answers to questions they</p> <p>16 have. If they then choose to participate in the</p> <p>17 program, we can move forward. If they don't, they</p> <p>18 don't have to, obviously.</p> <p>19 MR. JAMES: By its nature, has this</p> <p>20 product -- project produced a lot of questions</p> <p>21 about the actual concept and things of that</p> <p>22 nature?</p> <p>23 THE WITNESS: Well, it's created</p> <p>24 questions because it's not our -- you know, we're</p> <p>25 known as a resort operation. But we also are very</p>	<p style="text-align: right;">Page 197</p> <p>1 what I know about all this you have, he doesn't</p> <p>2 know the first thing about technology. And the</p> <p>3 documents, the offerings that you probably have</p> <p>4 seen, he played a role in helping create, but by</p> <p>5 no means the only role. Mark Scribner probably</p> <p>6 had the biggest role, and he's a very good</p> <p>7 hardworking attorney in Burlington, Vermont.</p> <p>8 And this project is different. And its</p> <p>9 technology, it's in the industry that anyone</p> <p>10 around here -- the University of Miami has a big</p> <p>11 bioscience facility there. It's high risk, high</p> <p>12 yield as an industry, as an industry. However, we</p> <p>13 feel that the clean room elements of this gives us</p> <p>14 that stability financially because it's going to</p> <p>15 be needed for a long, long time.</p> <p>16 So we have learned a lot, but we've got</p> <p>17 a great team, and we've got great products. And</p> <p>18 we are bringing to Newport, Vermont something that</p> <p>19 you would never find in a city like Newport,</p> <p>20 Vermont. And some people would say, well, God,</p> <p>21 that will never work there. Well, why won't it</p> <p>22 work there? It's a great idea. It's great</p> <p>23 technology. And the only thing we're missing is</p> <p>24 the formulation of capital and the ability to get</p> <p>25 patient capital to help us build it. And that's</p>

<p style="text-align: right;">Page 198</p> <p>1 what the EB-5 program is all about, finding</p> <p>2 patient capital to help rural communities improve.</p> <p>3 And that's what this program is about.</p> <p>4 I'm sorry. I'm sorry I'm emotional about it, but</p> <p>5 I sense a disbelief that it can happen there, and</p> <p>6 I don't buy it. I'm sorry.</p> <p>7 MR. GORDON: Want to take a break?</p> <p>8 THE WITNESS: No.</p> <p>9 MR. JAMES: Want to take a moment?</p> <p>10 THE WITNESS: No.</p> <p>11 MR. JAMES: You're sure?</p> <p>12 THE WITNESS: No.</p> <p>13 You know, I was looking at your mission</p> <p>14 statement out here. It talks about the</p> <p>15 facilitation of capital formation as one of your</p> <p>16 missions. That's what we're doing. In a rural</p> <p>17 high unemployment area, we're creating jobs, and</p> <p>18 we're facilitating the formation of capital to do</p> <p>19 good work. And this is not easy, but nothing good</p> <p>20 is. But we're going to succeed. We're going to</p> <p>21 succeed.</p> <p>22 (SEC Exhibit No. 103 was</p> <p>23 marked for identification.)</p> <p>24 BY MS. FUCHS-SINDLER:</p> <p>25 Q Mr. Stenger, the court reporter has</p>	<p style="text-align: right;">Page 200</p> <p>1 BY MS. FUCHS-SINDLER:</p> <p>2 Q Materials.</p> <p>3 A Okay. Background materials regarding</p> <p>4 northeast Canadian region and history of AnC</p> <p>5 Bio -- okay.</p> <p>6 Q And just if you know if that is correct</p> <p>7 as to what everyone's different roles and</p> <p>8 responsibilities were?</p> <p>9 A Okay. I understand it.</p> <p>10 Q Does that look to be correct?</p> <p>11 A Yeah. Well, I know all of those people</p> <p>12 and entities and recognize what they are providing</p> <p>13 and helping with. There may be others. I mean, I</p> <p>14 don't see Ike Lee and Jake Lee referred to there,</p> <p>15 but I do see that there's some reference to Korea</p> <p>16 and where that's being referenced, it refers to</p> <p>17 the scientist.</p> <p>18 Q So is this correct as to everyone's</p> <p>19 different roles and responsibilities?</p> <p>20 A What I see here is correct. There may</p> <p>21 be some other people, but these designations are</p> <p>22 accurate.</p> <p>23 Q Okay.</p> <p>24 And who had final approval over the</p> <p>25 offering memo for AnC Bio Jay Peak Biomedical</p>
<p style="text-align: right;">Page 199</p> <p>1 marked as Exhibit 103, it looks like an email</p> <p>2 string from May 28th and May 29th regarding AnC</p> <p>3 Bio Vermont business plan financials. And you</p> <p>4 were copied -- if you go to the bottom one, it's</p> <p>5 from Mr. Kelly to Mr. Gulisano copying Mr. Quiros</p> <p>6 and yourself. And it talks about different roles</p> <p>7 and responsibilities of various people in</p> <p>8 connection with the AnC Bio and Jay Peak</p> <p>9 Biomedical Research Park offering materials.</p> <p>10 Can you take a look at that and tell me</p> <p>11 if that's an accurate description of the different</p> <p>12 responsibilities and roles of the various people</p> <p>13 in connection with the offering materials?</p> <p>14 A Do you have a -- the bottom one where it</p> <p>15 says, Bill Stenger is providing background,</p> <p>16 something, and there's a bunch of typos.</p> <p>17 Q It's a Bate number, yeah.</p> <p>18 A It's a what?</p> <p>19 Q It's a Bates stamp.</p> <p>20 A I know, but what is it -- what is it</p> <p>21 covering up?</p> <p>22 Q It looks like it says, "is providing</p> <p>23 background."</p> <p>24 A Regarding?</p> <p>25 MR. GORDON: Materials.</p>	<p style="text-align: right;">Page 201</p> <p>1 Research Park?</p> <p>2 A I would say it was a combination of Mark</p> <p>3 Scribner, Bill Kelly, and myself. And Ary was</p> <p>4 aware of it, too, of course.</p> <p>5 Q And he reviewed as well?</p> <p>6 A I'm sure he did.</p> <p>7 Q Did he have to approve it?</p> <p>8 A I think if any of the four of us had a</p> <p>9 problem with a particular element of it, we</p> <p>10 would've raised our hand, and we would've dealt</p> <p>11 with it. There wasn't one final, you know,</p> <p>12 approval stamp, so to speak, but we all</p> <p>13 collaborated on it.</p> <p>14 Q Okay.</p> <p>15 (SEC Exhibit No. 104 was</p> <p>16 marked for identification.)</p> <p>17 BY MS. FUCHS-SINDLER:</p> <p>18 Q Let me show you what's been marked as</p> <p>19 Exhibit No. 104. It's a copy of offering</p> <p>20 materials for Jay Peak Biomedical Research Park,</p> <p>21 LP.</p> <p>22 Does this look to be a copy of the</p> <p>23 offering materials that were provided to</p> <p>24 investors?</p> <p>25 A It appears to be.</p>

<p style="text-align: right;">Page 202</p> <p>1 Q Okay.</p> <p>2 Were there any other versions?</p> <p>3 A Since we -- no, there were not any other</p> <p>4 versions. But since the submission of our first</p> <p>5 526 approval applications, we received two, what I</p> <p>6 call RFEs, request for additional evidence. And</p> <p>7 USCIS listed a series of questions. We answered</p> <p>8 those questions relatively quickly, resubmitted</p> <p>9 them to USCIS for their consideration.</p> <p>10 True to form these days, it took them</p> <p>11 about six months to get back to us with any kind</p> <p>12 of reaction to what we sent them. They issued us</p> <p>13 another RFE about a month ago. We responded to</p> <p>14 those questions, and about two weeks ago, gave</p> <p>15 them a detailed answer.</p> <p>16 In both RFEs, the questions were</p> <p>17 entirely appropriate and easy for us to answer.</p> <p>18 The data and information that they were requesting</p> <p>19 was readily available, and we immediately provided</p> <p>20 it for them. We are now waiting for them to</p> <p>21 respond to the second RFE.</p> <p>22 And -- and so back to your question, has</p> <p>23 this been updated? When an investor decides they</p> <p>24 wish to go forward, we put together the 526</p> <p>25 template, the application that goes into USCIS,</p>	<p style="text-align: right;">Page 204</p> <p>1 want anybody in this program that's not excited</p> <p>2 about it. And we've had -- and I think you</p> <p>3 probably are aware of this, we had a situation a</p> <p>4 couple of months ago where we had an investor from</p> <p>5 China that lied to me about why she wanted a</p> <p>6 refund. She told me that her father was sick.</p> <p>7 And she had been in our program for one</p> <p>8 year, a subscription agreement, escrow agreement.</p> <p>9 Her offering -- or her application was before</p> <p>10 USCIS. And she wrote to me and said, oh, my</p> <p>11 father is sick, I need the money for his</p> <p>12 operation, ya dah, ya dah, ya dah. I didn't have</p> <p>13 to give her a cent back, but I did. Within six</p> <p>14 weeks, I refunded her all of her money and her</p> <p>15 administration fee.</p> <p>16 And then for some unexplainable reason,</p> <p>17 she went ballistic on us. And I think -- you</p> <p>18 know, she said she sent the information to the</p> <p>19 SEC. I'm assuming you got it.</p> <p>20 And I'm hurt and annoyed that she lied</p> <p>21 to me, and then -- and then sent in -- in the</p> <p>22 environment over there, sent emails about how</p> <p>23 crooked we are and how this and how that.</p> <p>24 Disgraceful. Disgraceful. When we responded</p> <p>25 favorably and in a way that we didn't have to. I</p>
<p style="text-align: right;">Page 203</p> <p>1 which is a reflection of the offering, and any</p> <p>2 other information that can be considered</p> <p>3 insightful to the project.</p> <p>4 The new template that we would use and</p> <p>5 are using includes this, the first RFE and its</p> <p>6 answers, and the second RFE and its answers. And</p> <p>7 we've given them much more elaborate information</p> <p>8 on job creation, market demand for the products</p> <p>9 and services, technology questions that they had.</p> <p>10 And I feel we've given them a very robust and</p> <p>11 full, complete answer to everything.</p> <p>12 So in the future, this is -- the</p> <p>13 offering is a step in the process of being in the</p> <p>14 project, but we would also provide an investor</p> <p>15 with the RFE and the answers to the RFE as a way</p> <p>16 to better understand the whole dynamic of the</p> <p>17 program, because it's a better, you know, ultimate</p> <p>18 product.</p> <p>19 MR. JAMES: So you're saying that if you</p> <p>20 had a potential investor that contacted you today,</p> <p>21 then you would give them -- in the addition to the</p> <p>22 offering materials you would traditionally give,</p> <p>23 you would also give them the RFE and your response</p> <p>24 to the RFE?</p> <p>25 THE WITNESS: Yes, absolutely. I don't</p>	<p style="text-align: right;">Page 205</p> <p>1 was not obligated to refund her her money, but I</p> <p>2 did.</p> <p>3 And I also wound up refunding four other</p> <p>4 of her friends, who, as soon as she got her money</p> <p>5 back, jumped on the bandwagon.</p> <p>6 So I bring that up because I can't</p> <p>7 believe you don't know about it.</p> <p>8 MR. JAMES: Has there been any 526</p> <p>9 approvals for the AnC Bio project?</p> <p>10 THE WITNESS: No, not yet. They're</p> <p>11 pending. There's probably seventy that are</p> <p>12 pending.</p> <p>13 MR. JAMES: Seventy, 7-0?</p> <p>14 THE WITNESS: In that neighborhood.</p> <p>15 MR. JAMES: Okay.</p> <p>16 And the ones that you referenced with</p> <p>17 the RFE request for additional information,</p> <p>18 whatever the acronym is, those are -- has that</p> <p>19 occurred for all seventy or just one?</p> <p>20 THE WITNESS: No. There are probably --</p> <p>21 the RFE has been -- the second one has been</p> <p>22 received by probably a dozen or so, but they're</p> <p>23 all going to get it. That's the way it works, and</p> <p>24 I don't mind that.</p> <p>25 MR. JAMES: Because they're relying on</p>

<p style="text-align: right;">Page 206</p> <p>1 the same information --</p> <p>2 THE WITNESS: I don't mind a bit that</p> <p>3 they're asking questions.</p> <p>4 One of the things, Brian, I told you a</p> <p>5 few minute ago rather emotionally about what we're</p> <p>6 trying to do. And the formulation and access of</p> <p>7 patient money to do things, whether it's Jay Peak</p> <p>8 or AnC or an airport project we might have in the</p> <p>9 future or another thing in downtown Newport, this</p> <p>10 EB-5 world is incredibly competitive right now.</p> <p>11 When we started there were thirty</p> <p>12 regional center projects in the country. There</p> <p>13 are now close to five hundred. And China is this</p> <p>14 wild, wild west of a place where there's so much</p> <p>15 competition going on.</p> <p>16 I believe, and I don't know this for a</p> <p>17 fact, but I believe that a competitive regional</p> <p>18 center really, really went after us, because the</p> <p>19 questions that this young lady asked, she didn't</p> <p>20 come up with them on her own. And her attorney</p> <p>21 has so much as told me that other people had put</p> <p>22 her up to it, but nonetheless.</p> <p>23 MR. JAMES: Before I let Trisha</p> <p>24 continue, can you just give me a quick sense of</p> <p>25 the RFE? What exactly were the information --</p>	<p style="text-align: right;">Page 208</p> <p>1 two and a half to three weeks to bring all the</p> <p>2 information together, organize it correctly, and</p> <p>3 resubmit it to the attorneys who had received the</p> <p>4 RFE on behalf of their client. And then we -- we</p> <p>5 provided that information to each attorney.</p> <p>6 MR. JAMES: Okay.</p> <p>7 THE WITNESS: I know that within the</p> <p>8 last ten business days that a resubmission has</p> <p>9 been received by USCIS on behalf of one of the</p> <p>10 investors. So it is now officially in front of</p> <p>11 USCIS again.</p> <p>12 MR. JAMES: But did they respond?</p> <p>13 THE WITNESS: Not yet. I mean, they've</p> <p>14 only had it ten days. Now, I'm hopeful that</p> <p>15 within the next week or two that we'll get a reply</p> <p>16 and it'll be a favorable reply.</p> <p>17 MR. JAMES: In this instance, you're not</p> <p>18 required to wait until an approval before you</p> <p>19 could start using the investor funds towards the</p> <p>20 construction?</p> <p>21 THE WITNESS: We're -- we are -- we are</p> <p>22 moving forward in a very -- in a very controlled</p> <p>23 way. I'm eager for this approval. This is a</p> <p>24 great project for Vermont and for our region and</p> <p>25 for the investors. So I'm eager to get it going.</p>
<p style="text-align: right;">Page 207</p> <p>1 THE WITNESS: Both RFEs were essentially</p> <p>2 asking about the job creation aspect of things,</p> <p>3 and they also wanted to know more about the</p> <p>4 technology demand. Good questions.</p> <p>5 And I say -- and as critical as I am of</p> <p>6 USCIS for how long they're taking, they've got</p> <p>7 some pretty good people now who are looking at the</p> <p>8 projects. The questions they ask are good</p> <p>9 questions, and we welcome the opportunity to</p> <p>10 answer them.</p> <p>11 MR. JAMES: Do you know if that was</p> <p>12 produced to us in response to any of our</p> <p>13 subpoenas, the RFE --</p> <p>14 THE WITNESS: I don't know if they have,</p> <p>15 but I would be delighted to provide it for you.</p> <p>16 MR. JAMES: Can I request them also from</p> <p>17 you, Mr. Gordon?</p> <p>18 MR. GORDON: I just want to ask him when</p> <p>19 they were generated.</p> <p>20 MR. JAMES: I was going to ask the same</p> <p>21 question, so go ahead.</p> <p>22 THE WITNESS: The most recent RFE was</p> <p>23 received, I'm going to say, on or about a month,</p> <p>24 maybe six weeks ago at the most. And we</p> <p>25 immediately went to work on it. It took us about</p>	<p style="text-align: right;">Page 209</p> <p>1 I've got my -- I'm holding back the</p> <p>2 biggest element of the construction because I want</p> <p>3 to get the approval. But we're going to get it.</p> <p>4 MR. JAMES: So you're not required to</p> <p>5 wait, but you're waiting on some level --</p> <p>6 THE WITNESS: Yeah.</p> <p>7 MR. JAMES: -- for the approval before</p> <p>8 you expend --</p> <p>9 THE WITNESS: Correct.</p> <p>10 MS. LAMA: How much has been raised to</p> <p>11 date from investors?</p> <p>12 THE WITNESS: I'd have to check the -- I</p> <p>13 think it's in the seventy some million dollar</p> <p>14 range. Maybe more. I can get that specifically</p> <p>15 for you.</p> <p>16 MR. JAMES: And the project's a hundred</p> <p>17 and ten million?</p> <p>18 THE WITNESS: Yeah. Yeah.</p> <p>19 MS. LAMA: In that approximate seventy</p> <p>20 million, does that include the administrative</p> <p>21 fees?</p> <p>22 THE WITNESS: The administrative fees</p> <p>23 are part of the overall budgetary complexure. I</p> <p>24 don't -- and it's not a question of how much of</p> <p>25 the seventy would be -- you know, right now, we</p>

<p style="text-align: right;">Page 210</p> <p>1 have more than the full subscription, people 2 waiting to participate, but they'd like to see the 3 approval. 4 MS. LAMA: And how much has been spent 5 to date on architectural fees, designs, and 6 construction -- or demolition, I should say? 7 THE WITNESS: I would -- I could get 8 those precise numbers for you. I don't have a 9 particular, you know, specific of that. We just 10 finished the demolition portion a week or so ago. 11 But I can get that for you and be happy to. 12 MS. LAMA: Okay. 13 And, approximately, how much did the 14 demolition cost? 15 THE WITNESS: Well, I just said that I 16 don't know the exact amount. But I can get it for 17 you, and I can get a very precise number. I don't 18 think we've gotten the invoices that would be 19 representative of the demolition. Probably are 20 being formulated now. 21 MS. LAMA: Okay. 22 And who performed the demolition? 23 THE WITNESS: A company called Peak CM. 24 It's the name of the construction company. It's 25 headed by a fellow by the name of Jerry Davis.</p>	<p style="text-align: right;">Page 212</p> <p>1 building the box and the -- you know, the 2 non-bioscience specific stuff. There's two 3 architects. One is a Vermont architect and the 4 other is the specialist architect. 5 MS. LAMA: Okay. And which -- and who 6 are those architects? 7 THE WITNESS: NNE Pharmaplan is the 8 specialist architect. And the other is I believe 9 Gardner, the name Gardner Kilcoyne. 10 Whenever you're building a building in 11 Vermont, you've got to have a Vermont architect 12 stamp the drawings. That isn't to say they just 13 stamp them, because there's, you know, compliance 14 issues that NNE would not know, because they're 15 dealing with the clean room design, the air 16 handling design, the bioscience element of the 17 building construction and formulation. And the 18 other stuff is really more of a Vermont architect. 19 BY MS. FUCHS-SINDLER: 20 Q Can you take a look at what -- in 21 Exhibit No. 104, what's been marked as Bates 22 ANCBIO-000249. It talks about the TPLS device, 23 the foot-long device. 24 A 249? 25 Q Yes?</p>
<p style="text-align: right;">Page 211</p> <p>1 MS. LAMA: And that's a local 2 construction company? 3 THE WITNESS: Yeah, regional. Yeah. 4 They are located in Winooski, Vermont, but they do 5 business in the northern tier of Vermont. Done 6 some work at Jay Peak. 7 MS. LAMA: Okay. 8 Is there any relationship with Peak in 9 terms of are they an independent third party or -- 10 THE WITNESS: They're an independent 11 contractor, yeah. 12 MS. LAMA: Okay. 13 And you mentioned the name of -- what 14 was the architect -- 15 THE WITNESS: NNE Pharmaplan. 16 MS. LAMA: Are there any other 17 architectural or consulting firms involved? 18 THE WITNESS: Trudel Environmental did 19 the engineering for us and are doing the 20 engineering for us. 21 We do have a local Vermont architect. 22 There's the -- there's the -- the design and 23 architectural firm that's doing the technology 24 element of the building is very bioscience 25 centric. And then there's the architect that's</p>	<p style="text-align: right;">Page 213</p> <p>1 A TPLS. 2 Q And where it says, KFDA, FDA, CE 3 approved. 4 A KFDA, yes. 5 Q Yes. 6 What is that referring to? 7 A Korean FDA, FDA, and CE is the Japanese 8 equivalent of FDA. 9 Q Okay. 10 And it also says, "Currently under 11 process of U.S. FDA approval," and it looks like 12 something's cutoff, the year. 13 Do you know why it says currently under 14 process of U.S. FDA approval? 15 A I don't know why that phrase was used. 16 It's not -- 17 Q Is it -- 18 A It's not under FDA approval now. It's 19 currently under process. We're pulling together 20 the documentation for the sufficient due FDA. And 21 I guess the currently under process is a broad 22 term. We certainly aren't claiming it has been 23 approved. 24 Q But the -- so are you saying that that's 25 accurate where it says, "Currently under process</p>

<p style="text-align: right;">Page 214</p> <p>1 of FDA -- U.S. FDA approval?"</p> <p>2 A I think the term "under process" is a</p> <p>3 broad term. I think if I were to do this again, I</p> <p>4 wouldn't necessarily use that phrase.</p> <p>5 Q Because --</p> <p>6 A I think I would say it's currently being</p> <p>7 prepared for presentation for FDA approval.</p> <p>8 Q But is there anything pending with the</p> <p>9 FDA for approval?</p> <p>10 A Well, I said to you last night -- or I</p> <p>11 said to you earlier this afternoon, that I spoke</p> <p>12 with Ike Lee last night about the importance now</p> <p>13 that the building formulation was nearing</p> <p>14 completion, it's time to put the pedal down with</p> <p>15 the FDA on the three elements of the business</p> <p>16 plan.</p> <p>17 Q But there's nothing actually before the</p> <p>18 FDA; is that correct?</p> <p>19 A There's nothing --</p> <p>20 Q No approval process?</p> <p>21 A There is no submission at the FDA right</p> <p>22 now for that particular product. But it is the</p> <p>23 most advanced product we have, and it has KFDA</p> <p>24 approval. And that'll be the first product that</p> <p>25 we will submit to the FDA.</p>	<p style="text-align: right;">Page 216</p> <p>1 A Exactly what it says.</p> <p>2 Q And you've seen the documents?</p> <p>3 A I've seen the patent documents, yes. I</p> <p>4 believe that they're a part of the RFE</p> <p>5 submissions.</p> <p>6 MS. LAMA: And what is AnC Bio, Inc.</p> <p>7 South Korea? Who are they?</p> <p>8 THE WITNESS: They're a company in Korea</p> <p>9 that we've had relationships with, and they have</p> <p>10 technology rights that we have actually accessed.</p> <p>11 BY MS. FUCHS-SINDLER:</p> <p>12 Q And when you say accessed, what do you</p> <p>13 mean?</p> <p>14 A Well, we own them. It's part of our --</p> <p>15 our products. We own technology rights to</p> <p>16 bioscience-related products and services. And the</p> <p>17 RFE that I will send you will have copies of all</p> <p>18 of those patents and explanations for each and the</p> <p>19 science related to each.</p> <p>20 Q And in order to obtain FDA approval,</p> <p>21 does there have to be some studies done?</p> <p>22 A FDA approval will require a different</p> <p>23 level of approval for each product based on what</p> <p>24 it is and its history. And certain products will</p> <p>25 require a period of testing and different levels</p>
<p style="text-align: right;">Page 215</p> <p>1 Q But will -- have you spoken with the FDA</p> <p>2 about what -- how KFDA approval, if that has any</p> <p>3 impact?</p> <p>4 A We know that KFDA approval does have</p> <p>5 impact and does have weight, but it's not FDA</p> <p>6 approval. The KFDA is a very demanding form of</p> <p>7 scientific regulation, also, but it's not FDA</p> <p>8 approval.</p> <p>9 Q Who put this in, that currently under</p> <p>10 process of U.S. FDA approval?</p> <p>11 A I'm not sure who -- I'm not sure who put</p> <p>12 that in.</p> <p>13 This particular device is physically</p> <p>14 being used in Korea and in Korean operating rooms</p> <p>15 right now. This is not a theoretical device. This</p> <p>16 is a device that actually is being used in the</p> <p>17 operating room in Asia. Some of these things are</p> <p>18 going to need further testing, but this one is the</p> <p>19 one that is the most advanced.</p> <p>20 Q And if you look at AnC Bio -- sorry. Let</p> <p>21 me just go back for one second.</p> <p>22 Where it says also that the TPLS is</p> <p>23 developed under patented technology owned by AnC</p> <p>24 Bio, Inc. South Korea, what's your understanding</p> <p>25 of that?</p>	<p style="text-align: right;">Page 217</p> <p>1 of what we would refer to as certification. And</p> <p>2 some will require more than others.</p> <p>3 Q So there has to be testing; is that</p> <p>4 correct?</p> <p>5 A There -- there will be. There will be</p> <p>6 testing in certain of these for sure, and the</p> <p>7 degree of the testing will depend upon the</p> <p>8 particular product and the type of device that it</p> <p>9 represents.</p> <p>10 I'm not trying to -- I'm saying yes, but</p> <p>11 I'm saying there may be ten different products and</p> <p>12 services that we're going to have and each one</p> <p>13 will have its own FDA protocol and approval</p> <p>14 timeline.</p> <p>15 Q For the TPLS, has any testing been</p> <p>16 started yet?</p> <p>17 A In the United States, no. In Asia,</p> <p>18 lots, because it's currently being use in human</p> <p>19 operations in Asia.</p> <p>20 So to some degree, to some degree the</p> <p>21 U.S. FDA will accept some aspects of the</p> <p>22 preexisting usage and the testing, but not</p> <p>23 necessary all.</p> <p>24 Q How do you know that they'll accept it?</p> <p>25 A That's what our scientists have -- no, I</p>

<p style="text-align: right;">Page 218</p> <p>1 didn't say they would accept --</p> <p>2 MR. GORDON: Don't answer any legal</p> <p>3 advice you're getting, though.</p> <p>4 THE WITNESS: Huh?</p> <p>5 MR. GORDON: If any of that is based on</p> <p>6 legal advice, you don't want to --</p> <p>7 THE WITNESS: It's not. It's just --</p> <p>8 it's anecdotal information that Dr. Lee gave me.</p> <p>9 BY MS. FUCHS-SINDLER:</p> <p>10 Q But it's not information from the FDA?</p> <p>11 A No. No.</p> <p>12 Q Okay.</p> <p>13 Do you have an understanding if the</p> <p>14 testing has to be done here, the studies have to</p> <p>15 be done in the U.S.?</p> <p>16 A That's correct.</p> <p>17 Q And do you have an understanding of if</p> <p>18 there's a difference if the device is used for six</p> <p>19 hours or less versus a longer period of time?</p> <p>20 A Yes.</p> <p>21 Q What's your understanding?</p> <p>22 A Well, my -- again, if the device is used</p> <p>23 in a longer period of time, it requires a certain</p> <p>24 level of testing and approval, and less, if it's a</p> <p>25 different level. And, again, I'm not a Ph.D. and</p>	<p style="text-align: right;">Page 220</p> <p>1 Q How will that impact the process of</p> <p>2 getting 829s?</p> <p>3 A Well, the 829 is -- is a job-creating</p> <p>4 timeline. The biggest actual job creator in this</p> <p>5 facility are the clean rooms. Each clean room</p> <p>6 will have between three and five people, and</p> <p>7 they're fifty of them. And we have our other, the</p> <p>8 manufacturing and assembly and distribution</p> <p>9 componentry, and then we have our stem cells</p> <p>10 product line.</p> <p>11 But, you know, there'll be several</p> <p>12 hundred people involved with clean room</p> <p>13 utilization. And that's a real core component of</p> <p>14 this whole effort.</p> <p>15 Q And could you go to Bate -- just two</p> <p>16 pages later, ANCBIO-251 where it talks about</p> <p>17 C-PAK?</p> <p>18 A I can, yeah.</p> <p>19 Q World's smallest hemofiltration system.</p> <p>20 A Uh-huh.</p> <p>21 Q And do you see where it says, "Currently</p> <p>22 under progress of U.S. FDA approval 2013."</p> <p>23 A I'm looking at the reference here.</p> <p>24 Where --</p> <p>25 Q If you look at what's been marked</p>
<p style="text-align: right;">Page 219</p> <p>1 I'm not an MD, but there are different levels. If</p> <p>2 you're using this device for an extended period of</p> <p>3 time, it requires one kind of testing and</p> <p>4 approval. And if it's another, it's another.</p> <p>5 Q So for the TPLS, is this going to be a</p> <p>6 device six hours or less, or is it going to be</p> <p>7 more of an extended use?*</p> <p>8 A I would have to defer to Dr. Lee</p> <p>9 about -- I think we're going to try for both.</p> <p>10 We'll initially, perhaps, do -- you know, get the</p> <p>11 first product produced, and then we'll go to the</p> <p>12 next level.</p> <p>13 I'm a little over my head here in terms</p> <p>14 of, you know, the differentiation between -- what</p> <p>15 you're pointing out is correct. There is a</p> <p>16 different protocol for a longer utilization than a</p> <p>17 shorter one.</p> <p>18 Q And do you know how long that the</p> <p>19 studies and testing will take before FDA approval</p> <p>20 would be granted?</p> <p>21 A It somewhat depends on how aggressive we</p> <p>22 are in our initiative to comply and to do the</p> <p>23 work. I think it will take at least a year and</p> <p>24 maybe two years. And that's why I want to get</p> <p>25 started before we do construction.</p>	<p style="text-align: right;">Page 221</p> <p>1 ANCBIO-000251.</p> <p>2 A 248 or 251?</p> <p>3 Q 251.</p> <p>4 A Okay.</p> <p>5 Q Is there any -- is there an approval</p> <p>6 process going on right now for C-PAK? Is it under</p> <p>7 FDA -- is it under the approval process?</p> <p>8 A I don't -- no, this particular product</p> <p>9 has not been submitted to the FDA. It says,</p> <p>10 "Currently under progress of U.S. FDA approval."</p> <p>11 Q Is that an accurate statement?</p> <p>12 A I don't think that's accurate English,</p> <p>13 to be honest with you.</p> <p>14 Q Because there's been no submission made?</p> <p>15 A There's been no submission made to the</p> <p>16 FDA for that particular product yet. Yeah.</p> <p>17 Q And who wrote this portion?</p> <p>18 A I think this came out of our Korean</p> <p>19 team.</p> <p>20 Q And who approved this?</p> <p>21 A Well, it's part of the overall</p> <p>22 submission, so I'd have to take responsibility for</p> <p>23 it.</p> <p>24 Q Did anyone else approve this?</p> <p>25 A I'm sure that we all saw it, but I</p>

<p style="text-align: right;">Page 222</p> <p>1 don't -- I do not -- whenever asked, and I think 2 in our 526 approval -- or our submission, in our 3 526 submission, I'll check the template, nowhere 4 do we claim that we have FDA approval for any 5 product. We openly acknowledge that we have to go 6 through that, and we don't claim to -- in our 526 7 submission, we don't claim to have FDA approval 8 for anything.</p> <p>9 Q But this is a document that's given to 10 investors; is that correct?</p> <p>11 A This is given to investors as part of 12 their decision-making process, yeah.</p> <p>13 Q Okay.</p> <p>14 Can you turn to your attention to what's 15 been Bate marked ANCBIO-000081 where it talks 16 about the projection. It says, "Projected income 17 and expenses, 2013 to 2018."</p> <p>18 A Uh-huh.</p> <p>19 Q Who prepared this?</p> <p>20 A I think it was prepared in collaboration 21 with our Korean team, as well as Bill Kelly.</p> <p>22 Q And did Mr. Gulisano also prepare this?</p> <p>23 A I think he may have -- he may have 24 helped contribute to putting it together, yes.</p> <p>25 Q What was the basis of these figures,</p>	<p style="text-align: right;">Page 224</p> <p>1 hasn't been anything built or no FDA approval, has 2 there been any kind of revision to these 3 projections?</p> <p>4 A Well, you're showing me the offering 5 document that was prepared at the beginning. We 6 have now been almost eighteen months since this 7 submission. We would have to forward these 8 numbers. And, perhaps, what we would be best to 9 have done would be to put year one, year two, year 10 three, because all bets are off with the USCIS 11 taking as long as they are for approvals.</p> <p>12 You make your best guess based on -- on 13 getting it approved and up and operating. Our 14 history at Jay Peak has always been four to six 15 months approval, but that's no longer the case 16 nationally. Right now USCIS is claiming the 526 17 approvals are taking anywhere between fourteen and 18 twenty months.</p> <p>19 So I would say to you, yeah, these -- 20 2014 is here, and we haven't built yet because 21 we're behind. So a going forward statement 22 would -- we would probably be wise to change that 23 from a particular year to a -- like a year one, 24 year two, year three.</p> <p>25 MS. LAMA: And in terms of these</p>
<p style="text-align: right;">Page 223</p> <p>1 what's contained here on Bate 81?</p> <p>2 A I think it has largely to do with the 3 market demand that we expect for each of the 4 products of those three particular areas that I 5 talked about.</p> <p>6 Q But how are these figures -- what was 7 the basis of them?</p> <p>8 A Basis of product, what we perceive the 9 market demand to be. And they're -- like any new 10 entity, they are an estimate of what we hope and 11 expect will happen, not unlike the products that 12 we -- we put forth in our offering documents for 13 the ski resort and the projects at Jay Peak. We 14 estimated on what we thought would happen. These 15 numbers are put together on the basis of what our 16 best judgment is based on the industry and the 17 costs within the industry.</p> <p>18 Q So you see that there's some figures 19 even in 2014, 2015.</p> <p>20 A Uh-huh.</p> <p>21 Q If you look even under where it says, 22 artificial organs and stem cells and cleaning 23 fees.</p> <p>24 A Uh-huh.</p> <p>25 Q Since the building hasn't -- there</p>	<p style="text-align: right;">Page 225</p> <p>1 projections, how was demand assessed? What was 2 the basis for the assumptions?</p> <p>3 THE WITNESS: I would -- I'd have to 4 defer to Ike and to Dr. Lee, Dr. Jake Lee, on the 5 science part of the organs.</p> <p>6 The clean rooms, we relied on that 7 element of the industry. There's pretty -- 8 there's pretty solid data on what clean rooms rent 9 for and what their availability is.</p> <p>10 The RFE will help elaborate on the 11 numbers.</p> <p>12 MR. JAMES: Okay.</p> <p>13 THE WITNESS: And does quite a good job 14 of that.</p> <p>15 MR. JAMES: Okay.</p> <p>16 BY MS. FUCHS-SINDLER:</p> <p>17 Q If you look at what's been -- if you go 18 a few pages earlier, Bates 69, where you see a 19 timeline.</p> <p>20 A 69?</p> <p>21 Q Yeah. Who prepared this?</p> <p>22 A Sorry. Just one second.</p> <p>23 Q Okay.</p> <p>24 A The timeline that you're referring to, 25 the capital raise, the preconstruction site work?</p>

1 **Q Yeah.**
 2 A That was the estimate based on when we
 3 started this effort to raise the capital. It
 4 clearly is out of -- out of date, and we need --
 5 we would need to update it.
 6 You know, when you put a project
 7 together, you can take it so far and you make
 8 certain assumptions on the basis of your history
 9 with approval. And I said a minute ago that there
 10 were thirty projects in the United States when we
 11 started. There are five hundred now.
 12 When we started, there were twenty-five
 13 adjudicators at USCIS. There's now seventy-five.
 14 Thirty and twenty-five adjudicators; five hundred
 15 projects and seventy-five adjudicators. So it
 16 doesn't -- it's not hard to understand why the
 17 timelines are taking longer. It doesn't help us,
 18 but it's understandable.
 19 (SEC Exhibit No. 105 was
 20 marked for identification.)
 21 BY MS. FUCHS-SINDLER:
 22 **Q Okay. I'm showing you what's been**
 23 **marked as Exhibit No. 105. It's a three-page**
 24 **document. It's like with bullet points regarding**
 25 **AnC Bio Vermont.**

1 **Do you recognize this document?**
 2 A Yeah, I've seen it. Yeah.
 3 **Q Who prepared this?**
 4 A I believe our team at Jay Peak did.
 5 **Q And who is that?**
 6 A Myself. Alex McClean is one of our
 7 staff members. We did -- if I may review it.
 8 Okay.
 9 **Q Who else prepared this?**
 10 A I think it was done internally by our
 11 folks, myself included. And to answer, you know,
 12 the typical questions that people might have about
 13 things like training, timeline, why such a -- I
 14 mean, the questions are there, why EB-5, what
 15 would be built.
 16 **Q So was it prepared by you, Alex McClean?**
 17 A I believe that I participated in helping
 18 create this, because it was designed to be an easy
 19 to understand Q and A about the project.
 20 MR. JAMES: This would be provided to
 21 investors that had questions?
 22 THE WITNESS: If they asked a question.
 23 Not that they had issues. I mean, just we get
 24 asked all the time, why EB-5, why a facility in
 25 Vermont, you know, what are we building, what kind

1 of income can we expect, and how many investors
 2 will participate?
 3 MR. JAMES: This was sent out to
 4 potential investors?
 5 THE WITNESS: I -- we would never -- we
 6 didn't send this out to -- if people would inquire
 7 of us, we would -- you know, this might be one of
 8 the things that we would give them.
 9 MR. JAMES: Okay.
 10 BY MS. FUCHS-SINDLER:
 11 **Q When was this prepared?**
 12 A Well, it refers to full funding would be
 13 complete by spring of 2013, so I suspect it was a
 14 couple of years ago, because clearly, it's well
 15 beyond spring of 2013. We're in summer of '14.
 16 And I would think this was a few years ago.
 17 **Q It shows the directors of AnC Bio**
 18 **Vermont and AnC Bio, Inc. Korea?**
 19 A Uh-huh.
 20 **Q Is that correct information?**
 21 A I know the directors of AnC Bio Vermont
 22 at the time are Ary, Bill, and myself. I don't
 23 know if Ary and Bill -- I don't believe Ary and
 24 Bill are currently directors of AnC Bio Korea.
 25 And I honestly don't know or think we're

1 using this document right now, but I'm not a
 2 hundred percent sure.
 3 **Q So you said at the time Ary, Mr.**
 4 **Quiros --**
 5 A Well, I don't know the date of this
 6 particular -- the creation of this document. I
 7 think this is very old, very old, because it's
 8 referring to funding will be completed in 2013.
 9 Now, that was a year ago. And I can tell by the
 10 EB-5 projects have five hundred and forty
 11 investors from sixty countries. We now have
 12 investors in seventy-four countries. So this is
 13 probably -- you know, this could be 2011, 2012.
 14 **Q And it also talks about FDA approval**
 15 **pending and there have been no submissions.**
 16 A Well, pending -- you know, pending is --
 17 to me means it's not approved. It's not approved.
 18 And if anybody were -- you know, I said this to
 19 you earlier, if anybody asked, do we have FDA
 20 approval, we would say, no, we do not have FDA
 21 approval.
 22 **Q Has anyone asked?**
 23 A Sure, they ask. Sure. That's
 24 important. Believe me, that's important. And we
 25 do not claim that. You know, and what was put in

<p style="text-align: right;">Page 230</p> <p>1 this back of the folder here, I actually am 2 embarrassed to see the English, it was not right, 3 and shame on me for not catching it. 4 MR. JAMES: But in Exhibit 105, where it 5 says, pending, wouldn't you interpret that to mean 6 that AnC Bio Vermont has done what they needed to 7 do in regards to FDA approval, and now they're 8 just waiting on a response from FDA? 9 THE WITNESS: You might be able to 10 interpret it that way, but I -- when we get asked 11 the question about FDA approval, we indicate that 12 we have not submitted for FDA yet, that we're 13 putting -- pulling the materials together for 14 that, but we have not -- we have not submitted it 15 yet. 16 MR. JAMES: Is there a similar document 17 that says what you just said and does not say it's 18 pending? 19 THE WITNESS: I'd have to look. 20 MR. JAMES: Do you recall such a -- 21 THE WITNESS: I -- I don't know. I do 22 know what we say when we're asked that question, 23 and we're usually asked that question by most 24 investors. 25 BY MS. FUCHS-SINDLER:</p>	<p style="text-align: right;">Page 232</p> <p>1 what's been marked as Exhibit No. 91. You'll see 2 it's a multi-page document. The first part is a 3 cover letter to Ariel Quiros from George Gulisano, 4 cc'ing William Kelly, dated February 20th, 2014, 5 Transfer to Jay Peak Biomedical Park for February 6 '14 Invoices, Part One of Four. And then when you 7 to go to the second page, you'll see a request 8 later dated February 24th signed by you -- 9 A Uh-huh. 10 Q -- for the payment of certain invoices, 11 and then you'll see various invoices attached. 12 Do you recognize this document? 13 A I do. 14 Q What is it? 15 A The first document? 16 Q Yeah. If you could just tell me a -- 17 give me a summary of each page. 18 A Well, the first one is a memo to Ary 19 from George Gulisano, "I've attached the 20 authorization of the general partner for this 21 transaction, as well as invoices to be paid." 22 Q And the second page, is that your 23 signature? 24 A The second page is my signature, yeah. 25 Q And then the invoices, do you know who</p>
<p style="text-align: right;">Page 231</p> <p>1 Q What's the role of AnC Bio Vermont? 2 A Well, that's the name of the entity that 3 will operate the facility in Newport. 4 You know, the review of the offering 5 document -- 6 MR. GORDON: Let them ask. There's no 7 question. 8 THE WITNESS: Oh, Okay. 9 MR. GORDON: Are you guys about to 10 switch subjects maybe? I'm just thinking about a 11 five-minute break, and then also maybe talking 12 about the schedule. 13 MS. FUCHS-SINDLER: If you need a break, 14 we'll go off the record then. 15 MR. GORDON: Well, why don't we just go 16 off the record to talk about the schedule, and 17 then we can decide whether we'll take a break or 18 not. 19 MS. FUCHS-SINDLER: Okay. We're off the 20 record. 21 (A brief recess was taken.) 22 MS. FUCHS-SINDLER: We're back on the 23 record after a short break. 24 BY MS. FUCHS-SINDLER: 25 Q Mr. Stenger, can you take a look at</p>	<p style="text-align: right;">Page 233</p> <p>1 prepared these invoices? 2 A This invoice? This one, Northeast 3 Contract Services? 4 Q Yes, the invoices for Northeast Contract 5 Services. 6 A I don't know who prepared the invoice. 7 That's my signature on it. 8 Q Okay. 9 Do you know what this invoice to 10 Northeast -- for Northeast Contract Services, what 11 that's for? 12 A It has to do with the construction 13 services for the project and the formulation of 14 the project and the design work and overseeing 15 the -- you know, the project that is being done. 16 Q What's Mr. Kelly's role with Northeast 17 Contract Services? 18 A He's the head of that operation, that 19 entity. 20 MS. LAMA: And are these the 21 construction supervision fees that are referenced 22 in the offering materials? 23 THE WITNESS: Are they the construction 24 supervision fees? They're reflective I believe of 25 some of that, yes. Yes, I do believe that.</p>

<p style="text-align: right;">Page 234</p> <p>1 And then we have JCM, and those invoices 2 are reflective of architecture, technology, 3 equipment. Those are the three major things that 4 the Jay Construction Management invoices are 5 representative of. 6 MS. LAMA: And -- 7 THE WITNESS: Architecture, technology 8 acquisition, and the equipment ordering for the 9 facilities, which is substantial. 10 MS. LAMA: And are these invoices -- 11 were payments due for these -- for architectural 12 engineering fees and deposits? Why are these 13 monies going to JCM? 14 THE WITNESS: Because there's work 15 underway and there are commitments underway for 16 those services that I just mentioned to you, those 17 three particular areas; architectural, technology 18 rights, and equipment ordering for the project. 19 There are many million of dollars of equipment 20 that are ordered and needed for this project that 21 require many, many months of advance ordering for. 22 MS. LAMA: Okay. And what's you're 23 understanding as to who these payments were going 24 to be made to for this medical equipment? Where 25 are these funds going?</p>	<p style="text-align: right;">Page 236</p> <p>1 And we have an obligation -- or the 2 company that's building this facility has an 3 obligation to produce and build the facility as 4 outlined, and these are the progress payments 5 in -- in the activity of doing that. 6 MS. LAMA: Okay. And in February 2014, 7 there were four installment payments made similar 8 to this one, in the cover sheet that says one of 9 four? 10 THE WITNESS: The five hundred and 11 twenty thousand dollar invoice? 12 MS. LAMA: Actually, I'm sorry. I 13 should be more clear. If we go to the first page. 14 THE WITNESS: Okay. 15 MS. LAMA: And it says in the subject, 16 "Transfer to Jay Peak Biomedical Research Park, LP 17 for February 2014 Invoices, Part One of Four." 18 Were there four installment payments, each for six 19 point two four million, that were similar -- 20 they're all similar to this one? So four payments 21 each for six point two four million? 22 THE WITNESS: You're referring to this 23 cover letter, asking if there are four of these? 24 MS. LAMA: Yes. So, approximately, 25 twenty-five million was transferred?</p>
<p style="text-align: right;">Page 235</p> <p>1 THE WITNESS: In many respects, they're 2 going directly to the vendor and any Pharmaplan 3 architect. Some of them are going to AnC Bio 4 Korea for the technology rights. And the other 5 ordering of the products and services, there are a 6 host of different companies that will be the 7 provider of equipment and supplies for the 8 project. 9 MS. LAMA: Is it your understanding that 10 an amount was -- a payment was due for medical 11 equipment and that's why these Jay Peak Biomedical 12 Research Park investor funds were being 13 transferred to JCM? 14 THE WITNESS: I know that there are 15 things underway that need to be paid for and 16 commitments made to facilitate the creation of 17 this project. And that's what these represent. 18 We've entered into agreements to produce 19 and create this project, and these are 20 representative of the invoices that are -- that 21 are part of that. And I know that there's a -- 22 you know, there's a two point six million dollar 23 fee arrangement per month, you know, for X-number 24 of months and that these are representative of 25 those particular invoices.</p>	<p style="text-align: right;">Page 237</p> <p>1 THE WITNESS: I'm not sure of the 2 number. There may be three others. This is from 3 George. So it very well could be. This is a big 4 project and with substantial commitments. And 5 there's a lot of -- a lot of investment and a lot 6 of work and a lot of commitment. 7 MS. LAMA: And to your understanding, 8 were the payments made to the Korean suppliers? 9 THE WITNESS: I believe that they have 10 been, yes. 11 MR. JAMES: Obviously, we're approaching 12 5:30. Just one last subject area before we give 13 Mr. Gordon a couple of minutes, and we adjourn 14 until next time. 15 Earlier, you had referenced the 16 separation with Mr. Hulme, and I think you said it 17 was back in January, February of 2012. Do you 18 recall that? 19 THE WITNESS: I do. 20 MR. JAMES: Do you recall specifically a 21 strategic planning meeting I think in Miami? 22 THE WITNESS: On January 30th and 31st. 23 MR. JAMES: Okay. 24 And who was in attendance at that 25 meeting?</p>

<p style="text-align: right;">Page 238</p> <p>1 THE WITNESS: George Gulisano, Bill 2 Kelly, Ary Quiros, Douglas Hulme, and Nicholas 3 Hulme, and myself. 4 MR. JAMES: And what was the purpose for 5 the gathering? 6 THE WITNESS: Well, the purpose was to 7 do a review of project updates, but more than 8 anything else, it was designed to be a forward 9 looking what and how do we work collaboratively 10 going forward. 11 MR. JAMES: Okay. You said that was 12 the -- 13 THE WITNESS: That was what I call the 14 meeting. 15 MR. JAMES: Okay. 16 And then did that turn out to be the -- 17 THE WITNESS: It was -- it was not a -- 18 it was not a good meeting from my personal 19 opinion. 20 MR. JAMES: All right. Tell us why. 21 THE WITNESS: Well, I worked with 22 Douglas in Rapid USA for three, four years, five 23 years. Worked productively for most of that time 24 promoting the projects and the programs at 25 Mountain. And for that, he benefited in a very</p>	<p style="text-align: right;">Page 240</p> <p>1 vacation at Jay Peak and went back to Florida. I 2 suggested that we have a meeting in Florida to, 3 I'll call it, clear the air and also plan our 4 future projects. And it was, unfortunately, a 5 pretty contentious meeting between the parties. 6 And I found -- I felt that it was unnecessarily 7 confrontational. I thought he was being a 8 demanding bully, and I think that our CFO was 9 being a headstrong CFO. And the two of them were 10 banging heads pretty hard. 11 But -- but Douglas did not know 12 everything about our company. He was developing 13 an attitude where -- and I'm trying to be as 14 objective on this as possible, then and now. He 15 was developing an attitude where, if we didn't do 16 what he said in the way that he was perceiving our 17 business, that he was not -- he was not going to 18 continue. And, you know, I saw that progressive 19 attitude coming over a period of time, and I -- in 20 the past many months, because we had a pretty 21 productive relationship for a long time. 22 I knew that there were some things about 23 what we were heading into, that he wasn't 24 particularly excited about having to perform. And 25 I'll give you an example, the 829 scenarios.</p>
<p style="text-align: right;">Page 239</p> <p>1 substantial way, which was our -- that was the 2 agreement. 3 In December, late December of 2011, he 4 came to Jay Peak, and he had interacted with our 5 leadership team. And Douglas, a bright guy in 6 many ways, also very obstinate and opinionated in 7 other ways, a CA, not a CPA, a British gentleman. 8 And his approach to how we were going to conduct 9 our business came from a certain direction based 10 on things that he might've thought or believed or 11 a philosophy of how and who was going to control 12 what. 13 When he came to Jay Peak in December, he 14 was interacting with our accounting staff and got 15 to a point where he was -- demanding is not too 16 strong a word I think, that we use and transfer 17 and configure the accounts in a way that would be, 18 perhaps, different than our Accounting Department 19 wanted. 20 And it was a bit of a contentious 21 situation between our accounting people and his 22 desire to move funds in different places. He was 23 not aware of all of what we do or did and 24 obligations that we may have had or not had. 25 And he left after a two-week family</p>	<p style="text-align: right;">Page 241</p> <p>1 The 829 is a lot of work, a lot of work. 2 They were committed to doing the 829s. They told 3 the investors that when the 829s came to be done, 4 that they would be there to do them. And he 5 wanted to get compensation from the investors for 6 the 829s. He was hoping to get two, three, four, 7 five thousand dollars per investor for the 829s. 8 Well, the investors were not buying it. 9 So I think there were, in addition to 10 philosophical stuff, personality conflicts, which 11 there definitely were some personality conflicts, 12 and the fact that he had benefited enormously from 13 our first several projects. Projects were getting 14 more competitive. 15 And that fifty thousand dollar fee that 16 I mentioned earlier, more and more of those 17 referral fees or those administrative fees were 18 being cut substantially because third parties, 19 like Chinese agents and others, were expecting to 20 get a slice of it. 21 So when he was getting his fifty 22 thousand dollars per investor in the first several 23 projects, towards the end, there were fifteen or 24 twenty thousand of that fifty was having to go to 25 another party too that he had made arrangement</p>

<p style="text-align: right;">Page 242</p> <p>1 with.</p> <p>2 So, you know, I -- I look back on that,</p> <p>3 and I know how hard I worked to make these</p> <p>4 projects at Jay Peak successful. I know that he</p> <p>5 made north of fifteen million dollars in three</p> <p>6 years as an agent for Jay Peak. I helped him</p> <p>7 immensely make that money.</p> <p>8 I think you've sensed how passionate I</p> <p>9 am about what I do and what we have done, and I</p> <p>10 carry that same passion with our -- with our</p> <p>11 investors and when we welcome them. And I helped</p> <p>12 him immeasurably make an enormous amount of money</p> <p>13 Now, that's neither here, nor there,</p> <p>14 because that was the deal. But I look at his</p> <p>15 demand and the way he -- he was abusive at the</p> <p>16 end. And I just -- and I have to say that my CFO</p> <p>17 was a little bit headstrong, too. And, frankly,</p> <p>18 at the end of those two days of meetings, I wanted</p> <p>19 to shake them both. I wanted to shake them both,</p> <p>20 but --</p> <p>21 MR. JAMES: Specifically, what was</p> <p>22 said -- what was the argument about between -- it</p> <p>23 sounds like you're saying the CFO and Mr. Hulme --</p> <p>24 THE WITNESS: Oh, it was, you know, how</p> <p>25 are accounts going to be organized and presented?</p>	<p style="text-align: right;">Page 244</p> <p>1 industry.</p> <p>2 But, you know, he wasn't -- he was -- he</p> <p>3 had picked -- he had picked the fruit. It was</p> <p>4 going to get a little tougher operationally and</p> <p>5 from a performance standpoint, the 829s I</p> <p>6 mentioned. And then there was the personality</p> <p>7 conflict and the control issues that were becoming</p> <p>8 obvious.</p> <p>9 MR. JAMES: And what accounts -- you</p> <p>10 said he was demanding that you guys, Jay Peak,</p> <p>11 handle the accounts a certain way. What accounts</p> <p>12 is he referring to, the accounts at Raymond James?</p> <p>13 Is it accounting you're talking about? What</p> <p>14 exactly?</p> <p>15 THE WITNESS: A little bit of both.</p> <p>16 Presentation, presentation of accounts, tax</p> <p>17 presentations, whether or not funds were in a</p> <p>18 particular account by the end of the year, because</p> <p>19 he wanted to show more money in the account for</p> <p>20 the year-end for 829 reasons. But we had made</p> <p>21 commitments for the use of the funds and we -- we,</p> <p>22 you know, we had commitments to do things. And we</p> <p>23 had initiated, you know, construction or activity.</p> <p>24 So it was -- it was style. It was -- it</p> <p>25 was -- he had an agenda that was concerned about</p>
<p style="text-align: right;">Page 243</p> <p>1 How are the taxes going to be filed and when?</p> <p>2 Who's going to do it? Who's not going to do it?</p> <p>3 And Douglas wanted control. And it was --</p> <p>4 unfortunately, it was obvious to me that you can't</p> <p>5 do that. You're a third-party vendor here. And</p> <p>6 you might have some recommendations and some</p> <p>7 opinions, but you're not going to run our</p> <p>8 business. You don't know the whole picture of</p> <p>9 what we are and what we've done and what</p> <p>10 commitments we've made and what things we've</p> <p>11 accomplished.</p> <p>12 And, you know, it was -- it was just,</p> <p>13 you know -- business situations, unfortunately,</p> <p>14 will sometimes dissolve. And I felt bad about</p> <p>15 that, because there was a lot of good. But there</p> <p>16 was an evolution that was not -- was not</p> <p>17 respectful, and I felt bad about it.</p> <p>18 But as time went on and I look back on</p> <p>19 it, I also realized that when Mr. Hulme was at Jay</p> <p>20 Peak in late December, he left Jay Peak for a</p> <p>21 couple of days and went down to our competitor at</p> <p>22 Mount Snow in the southern part of the state and</p> <p>23 began a relationship with them while he's still</p> <p>24 working with us. Totally, un -- I mean, I found</p> <p>25 out about it because our industry is a small</p>	<p style="text-align: right;">Page 245</p> <p>1 certain things of which I was concerned, too,</p> <p>2 because he made it appear to me that for the USCIS</p> <p>3 829 side, that, perhaps, the more you showed in</p> <p>4 the account before December 31st for tax purposes,</p> <p>5 the better. But, you know, frankly, I didn't -- I</p> <p>6 didn't understand all of it.</p> <p>7 I just knew that he was demanding</p> <p>8 certain things that were just unreasonable, and</p> <p>9 not his business. And he was acting as though,</p> <p>10 frankly, that he was a -- he thought he should be</p> <p>11 directing what we were doing. It just wasn't --</p> <p>12 not the way it was going to be.</p> <p>13 MR. JAMES: But can you tell us any</p> <p>14 anymore as far as what Mr. Gulisano said, what --</p> <p>15 any comments that Mr. Hulme made at the actual</p> <p>16 meeting?</p> <p>17 THE WITNESS: You know, I have -- you</p> <p>18 probably heard this in other situations, you had</p> <p>19 to be there. You had to be there. And you</p> <p>20 just -- you've got two people who are dueling</p> <p>21 accountants. And I wanted to -- as I said, I</p> <p>22 wanted to shake them both.</p> <p>23 MR. JAMES: Was there any discussion</p> <p>24 about whether the partnership accounts were</p> <p>25 encumbered, that's why they were not showing --</p>

<p style="text-align: right;">Page 246</p> <p>1 THE WITNESS: No. No --</p> <p>2 MR. JAMES: -- values --</p> <p>3 THE WITNESS: No.</p> <p>4 MR. JAMES: Any discussion about --</p> <p>5 THE WITNESS: You know, our relationship</p> <p>6 with him -- I was so transparent with him. I</p> <p>7 showed him everything. Because he was our -- he</p> <p>8 was helping us. We were working together. But he</p> <p>9 didn't know the whole picture of how we -- and</p> <p>10 what we were committed to and doing and how we</p> <p>11 were doing it. Not his business. He's a</p> <p>12 third-party promotional vendor and got incredibly</p> <p>13 well compensated for it, but got a little bit</p> <p>14 belligerent.</p> <p>15 MR. JAMES: Were there any discussions,</p> <p>16 I mean, about how Jay Peak was acquired back in</p> <p>17 2008?</p> <p>18 THE WITNESS: None. And I remember</p> <p>19 those two days pretty, pretty well, because I was</p> <p>20 very upset.</p> <p>21 MR. JAMES: Do you recall if notes were</p> <p>22 taken at the minute or any minutes were --</p> <p>23 THE WITNESS: Oh, I don't know if there</p> <p>24 were notes taken. I suspect there might've been.</p> <p>25 No one was assigned the notetaker and the</p>	<p style="text-align: right;">Page 248</p> <p>1 later, I get a one-sentence letter saying that</p> <p>2 Rapid USA is no longer going to represent Jay</p> <p>3 Peak. That's it. No clarity. No anything.</p> <p>4 And, you know, I'm literally at the</p> <p>5 parking lot of the airport about to get on a</p> <p>6 plane. And I do. I get on a plane. I fly down</p> <p>7 here. I go to the event. They're not there.</p> <p>8 And Ary, who lives here, and I, after</p> <p>9 the first day and I spoke at the conference, got</p> <p>10 in Ary's car, and we drove over to Naples to sit</p> <p>11 down with him and say, hey, what the hell is going</p> <p>12 on? And went over there. He wasn't there. His</p> <p>13 son wasn't there. None of -- the receptionist was</p> <p>14 there.</p> <p>15 And asked where he was, and she said she</p> <p>16 didn't know where he was. Well, I said to her, I</p> <p>17 said, would you please let him know that I'm</p> <p>18 trying to get together with him and sit down and</p> <p>19 talk over what's of concern. Because the letter</p> <p>20 certainly didn't say anything and the phone call</p> <p>21 didn't.</p> <p>22 So we head back to Miami, and I get a</p> <p>23 phone call from the secretary indicating that if I</p> <p>24 had any questions about going forward with them,</p> <p>25 to direct them to an attorney by the name of Mr.</p>
<p style="text-align: right;">Page 247</p> <p>1 secretary of the meeting, no. There were no votes</p> <p>2 taken.</p> <p>3 It was a meeting of -- I think I said</p> <p>4 six people. And we were trying to get the team</p> <p>5 focused on the future and got bogged down in</p> <p>6 accounting and personalities.</p> <p>7 MR. JAMES: And shortly thereafter, Mr.</p> <p>8 Hulme terminated his relationship with the</p> <p>9 partnerships in Jay Peak --</p> <p>10 THE WITNESS: Yeah. There was a program</p> <p>11 being conducted here in Miami that we had</p> <p>12 participated in for three years, and I spoke at,</p> <p>13 two hundred and fifty attorneys, over the Parrot</p> <p>14 Jungle conference area. And I was headed to the</p> <p>15 airport to get on the plane to come down to meet</p> <p>16 him and his son to do that presentation.</p> <p>17 And he calls me, and he says, I'm</p> <p>18 calling to let you know that Rapid USA is no</p> <p>19 longer going to represent Jay Peak. And I said,</p> <p>20 Douglas, what are you talking about? I said, what</p> <p>21 the hell is going on? And he said, well, you're</p> <p>22 going to get a letter in a second explaining it.</p> <p>23 Then I tried to engage him. I said, what's going</p> <p>24 on?</p> <p>25 In maybe fifteen or twenty minutes</p>	<p style="text-align: right;">Page 249</p> <p>1 Lindsey. And I then I think, I'm not sure if it</p> <p>2 was that next day, but soon thereafter, I reached</p> <p>3 out to Mr. Lindsey, and I think it was a week or</p> <p>4 so later maybe. I'm not sure of the dates, Brian.</p> <p>5 I was invited to come to a meeting down</p> <p>6 here. And I went to Mr. Lindsey's office where</p> <p>7 Mr. Lindsey and Douglas and another gentleman, who</p> <p>8 was introduced to me as a former SEC lawyer,</p> <p>9 manager in South Florida. I don't recall his</p> <p>10 name. But I sat for about two hours with Douglas</p> <p>11 and went over the things that, you know, were of</p> <p>12 seemingly concern to him. And I asked him at the</p> <p>13 end of the meeting --</p> <p>14 MR. JAMES: You can continue.</p> <p>15 (Mr. James leaves the room.)</p> <p>16 THE WITNESS: I asked -- I asked him</p> <p>17 towards the end of meeting, I said, Douglas, do</p> <p>18 you want to continue to work together and continue</p> <p>19 to create the impacts that we're talking about,</p> <p>20 the positive impacts? And he got up and left the</p> <p>21 rooming with Mr. Lindsey and the other gentleman,</p> <p>22 and then they came back. He said, well, if you</p> <p>23 can provide me with some assurance of certain</p> <p>24 things, we'll consider it, I'll consider it. I</p> <p>25 said, well, give me a list of what you'd like, and</p>

<p style="text-align: right;">Page 250</p> <p>1 I left.</p> <p>2 (Mr. James enters the room.)</p> <p>3 THE WITNESS: He did not produce that</p> <p>4 list at that time, because we just met, but he</p> <p>5 sent it to me I think it was the next day. Many</p> <p>6 of the things that were of concern to him we were</p> <p>7 able to produce right away. Some of it was --</p> <p>8 required Heather Whipkey, one of our staff</p> <p>9 accountants, to do.</p> <p>10 And Heather had two children -- has two</p> <p>11 children, and one of them was sick. And on the</p> <p>12 Friday of that week, which was the date that Mr.</p> <p>13 Lindsey had said that he would like to have this</p> <p>14 information, Heather had a sick child and</p> <p>15 indicated that she could not get the information</p> <p>16 together until Monday, but she would have it</p> <p>17 Monday. And that message was imparted to them.</p> <p>18 And at the end of the day on Friday,</p> <p>19 they sent a letter indicating that he was no</p> <p>20 longer interested in pursuing a relationship with</p> <p>21 us. And then they put out a -- I guess you call</p> <p>22 it a press release or a couple of paragraph letter</p> <p>23 to investors, attorneys indicating that, you know,</p> <p>24 Rapid USA was no longer interested in being part</p> <p>25 of Jay Peak and that they did not have confidence</p>	<p style="text-align: right;">Page 252</p> <p>1 raised concerns?</p> <p>2 THE WITNESS: I don't know the answer to</p> <p>3 that in terms of whether every investor got it,</p> <p>4 but any investor that expressed any concern was</p> <p>5 answered in detail.</p> <p>6 MS. LAMA: And what reasons did they</p> <p>7 state for not having confidence in the financial</p> <p>8 information?</p> <p>9 THE WITNESS: Never got an answer. Never</p> <p>10 got an answer.</p> <p>11 I saw him twice after that at various</p> <p>12 events that we were at. And he actually came up</p> <p>13 to me in an event in California, and he</p> <p>14 apologized, because the way he did that was really</p> <p>15 disgraceful. It did not have to happen that way.</p> <p>16 If he had had the courtesy of reaching out to me</p> <p>17 and giving us an opportunity to answer the</p> <p>18 questions that he had, which were not that</p> <p>19 difficult, we just had to produce the data. But I</p> <p>20 believe he was -- he was hell bent to go another</p> <p>21 direction, because he wanted to. His choice, but</p> <p>22 you know, you don't have to do it that way.</p> <p>23 And when I look back on what were we</p> <p>24 building at the time, what have we built since,</p> <p>25 what projects have we completed, have we done</p>
<p style="text-align: right;">Page 251</p> <p>1 in our financial situation or presentation.</p> <p>2 We then proceeded to give every single</p> <p>3 partnership complete financial details on each of</p> <p>4 the projects as it related to their particular</p> <p>5 area.</p> <p>6 (Mr. James leaves the room.)</p> <p>7 THE WITNESS: And calmed everybody down,</p> <p>8 because that -- their actions certainly created</p> <p>9 some concern among our investors and our</p> <p>10 attorneys, but we were able to demonstrate to</p> <p>11 everyone's satisfaction that these projects were</p> <p>12 performing as they should, doing what they were</p> <p>13 supposed to do, and creating what they were</p> <p>14 supposed to do.</p> <p>15 MS. LAMA: And you mentioned complete</p> <p>16 financial details were provided. What was</p> <p>17 provided?</p> <p>18 THE WITNESS: Well, we provided them</p> <p>19 with the balance sheets and the detail of each</p> <p>20 project.</p> <p>21 MS. LAMA: And who are they?</p> <p>22 THE WITNESS: The investors in the</p> <p>23 various projects that we had.</p> <p>24 MS. LAMA: So was this information</p> <p>25 distributed to all investors or investors who</p>	<p style="text-align: right;">Page 253</p> <p>1 everything that we said we would do, that he</p> <p>2 might've thought we weren't going to be completing</p> <p>3 the way he might've thought, we did that and</p> <p>4 better.</p> <p>5 BY MS. FUCHS-SINDLER:</p> <p>6 Q At the meeting, did Mr. Hulme raise any</p> <p>7 concerns about that money being -- money raised</p> <p>8 for one project, one phase, was being used to pay</p> <p>9 money for a different phase?</p> <p>10 A At which meeting?</p> <p>11 Q At any of the meetings.</p> <p>12 A Not really, no.</p> <p>13 Q That didn't come up?</p> <p>14 A No.</p> <p>15 Q Did he raise any concerns about any</p> <p>16 deficits from any accounts?</p> <p>17 A We had projects going, and Phase I,</p> <p>18 Phase II, Penthouse, Golf and Mountain Suites, and</p> <p>19 in the peak and valley of our operating season,</p> <p>20 you had pluses and minuses. And we had the</p> <p>21 ability, through our operations, to cover any</p> <p>22 valley that occurred, and we had the wherewithal</p> <p>23 to weather any kind of up or down.</p> <p>24 And whether -- you know, if he had a</p> <p>25 concern, and he may have expressed a concern, but</p>

<p style="text-align: right;">Page 254</p> <p>1 we were capable of handling whatever was happening</p> <p>2 in the marketplace and in the weather world of</p> <p>3 skiing and our operation.</p> <p>4 Q At any of the meetings with Mr. Hulme</p> <p>5 and/or his attorney present, did anyone say that</p> <p>6 money that would be raised from the Jay Peak</p> <p>7 Biomedical offering would be used to cover some</p> <p>8 kind of hole, or words to that effect?</p> <p>9 A I don't recall any discussion of the</p> <p>10 bioscience project with Douglas, no.</p> <p>11 Q Or not even saying specifically, but</p> <p>12 saying from the next offering or the upcoming</p> <p>13 offering, money raised from that, the upcoming</p> <p>14 offering would be used to help cover some kind of</p> <p>15 hole or deficit?</p> <p>16 A Every project has an element of income</p> <p>17 to the company. And so every project, there's a</p> <p>18 benefit. And what we do with that benefit is the</p> <p>19 company's prerogative.</p> <p>20 So -- but were we looking at this</p> <p>21 project and that project? No. There's an element</p> <p>22 of profitability for each project. And if we</p> <p>23 looked at a project and said, well, there's a</p> <p>24 benefit for this, so be it.</p> <p>25 Q But my question is very specific. Did</p>	<p style="text-align: right;">Page 256</p> <p>1 And we have projects that produced financial gain,</p> <p>2 and what we do with those financial gains is</p> <p>3 the -- that's what business is about.</p> <p>4 So, you know, I'm trying to answer your</p> <p>5 question from a conceptual standpoint, but I don't</p> <p>6 know if there was a particular quote. But</p> <p>7 certainly if there was a financial obligation, and</p> <p>8 we had a business outcome that was on the horizon,</p> <p>9 and we were going to take the outcome of that</p> <p>10 business and use it for whatever, pay a bill, pay</p> <p>11 a commitment, so be it.</p> <p>12 MS. LAMA: Were there any concerns or an</p> <p>13 issue and specifically an issue raised about</p> <p>14 margin loans or a project shortfall that had to be</p> <p>15 resolved?</p> <p>16 THE WITNESS: We had certain elements of</p> <p>17 our projects that went over budget. And they went</p> <p>18 over budget because of weather, winter</p> <p>19 construction, and in a couple of instances,</p> <p>20 decisions that we made -- I made about whether or</p> <p>21 not the water park would be of a certain</p> <p>22 characteristic or whether or not the ice arena</p> <p>23 would have certain features to it.</p> <p>24 I did that with my eyes wide open,</p> <p>25 because my consultants told me that if you build</p>
<p style="text-align: right;">Page 255</p> <p>1 someone say -- did anyone say at the one of the</p> <p>2 meetings with Mr. Hulme and/or his attorney that</p> <p>3 money that would be raised from the next project</p> <p>4 would be used to cover some kind of hole or</p> <p>5 deficit?</p> <p>6 A Well, I mean, money that's earned as</p> <p>7 part of the project and perfectly legitimate, what</p> <p>8 you do with that is your business.</p> <p>9 Q So did someone say that?</p> <p>10 A Well, I mean, I don't know if somebody</p> <p>11 said that, but what would be wrong if they did?</p> <p>12 Q I'm just asking if they did.</p> <p>13 A No. I mean, I could imagine that we</p> <p>14 would say -- or I could say that if a particular</p> <p>15 project X is completed and within the context of</p> <p>16 that project there is a financial benefit and you</p> <p>17 do something with that -- those funds, that's your</p> <p>18 business.</p> <p>19 Now, we have a business where you have</p> <p>20 an operating winter, you have peaks and valleys in</p> <p>21 the business cycle, and we have to deal with those</p> <p>22 business realities every single year. If you have</p> <p>23 a bad winter weather wise, you might have a bigger</p> <p>24 issue at the end of the winter. If you have a</p> <p>25 great winter, maybe you'll have less of an issue.</p>	<p style="text-align: right;">Page 257</p> <p>1 this water park and you build it this particular</p> <p>2 way, you'll get a little bit of a bang from it.</p> <p>3 But if you do it this way, the retractable roof,</p> <p>4 the transparent roof, a couple of features in it,</p> <p>5 you will make an enormous difference in the</p> <p>6 financial outcome of your project.</p> <p>7 I took that advice. I did it. The cost</p> <p>8 of the water park was significantly higher than</p> <p>9 was originally designed. But within the proceeds</p> <p>10 of that project, whether it was land sales or</p> <p>11 supervision or whatever that we were entitled to,</p> <p>12 envisioned that being used to take care of the</p> <p>13 expansion of the facility. So, you know, there's</p> <p>14 that kind of give and take in a project.</p> <p>15 And we also had other resources, our</p> <p>16 operating experience, our ski proceeds to take</p> <p>17 care of some of this. And we were seeing our</p> <p>18 sales grow in a very, very meaningful way.</p> <p>19 MS. LAMA: Okay. Not to -- I'm sorry</p> <p>20 to --</p> <p>21 THE WITNESS: It's all right.</p> <p>22 MS. LAMA: -- to interrupt. But</p> <p>23 specifically, was there a shortfall that was an</p> <p>24 issue that was the subject of discussion and how</p> <p>25 is that shortfall going to be addressed, a</p>

<p style="text-align: right;">Page 258</p> <p>1 specific shortfall?</p> <p>2 THE WITNESS: Well, yeah. In the</p> <p>3 meeting on the 30th and 31st, there was discussion</p> <p>4 about what the financial -- I guess I don't want</p> <p>5 to say bottom line, but what would our next</p> <p>6 operating year look like in terms of our</p> <p>7 obligations and our responsibilities, and how are</p> <p>8 we going to address the projects going forward and</p> <p>9 the operating situation for that given fiscal</p> <p>10 year? And there was discussion about it, but the</p> <p>11 ultimate resolution of that question was never</p> <p>12 approached in those meetings because it never got</p> <p>13 there. The personality stuff that I referred to</p> <p>14 got in the way.</p> <p>15 MS. LAMA: Was there an issue, concern</p> <p>16 about funds from later offerings or projects being</p> <p>17 used to fund cost overruns?</p> <p>18 THE WITNESS: Was there an issue?</p> <p>19 MS. LAMA: Yes.</p> <p>20 THE WITNESS: What do you mean by an</p> <p>21 issue?</p> <p>22 MS. LAMA: A concern raised related to</p> <p>23 cost overruns, for example, like the water park,</p> <p>24 for cost overruns being paid for using funds from</p> <p>25 investor funds from subsequent offers.</p>	<p style="text-align: right;">Page 260</p> <p>1 MS. LAMA: A later offering. For</p> <p>2 example, funds from Penthouse -- I'm sorry, from</p> <p>3 Golf and Mountain Suites or Light (sic) and</p> <p>4 Townhouse being used to pay for a prior offering,</p> <p>5 the project cost construction in a prior offering.</p> <p>6 THE WITNESS: Proceeds -- proceeds from</p> <p>7 a project could be used for whatever purpose we</p> <p>8 want, and if it is to retire an invoice or an</p> <p>9 element of debt on something that was either at</p> <p>10 the ski area or a particular business activity of</p> <p>11 ours, that's our business. Yeah, that's all</p> <p>12 right. There's nothing wrong with that.</p> <p>13 There's nothing wrong with me taking the</p> <p>14 proceeds from something I'm working on tomorrow</p> <p>15 and take care of a debt that I might've had</p> <p>16 yesterday, as long as the agreement indicates that</p> <p>17 I have the right to that proceed or that benefit.</p> <p>18 I mean, we are in a cyclical business,</p> <p>19 and some years you do great and other years you</p> <p>20 may have stress.</p> <p>21 MS. LAMA: Okay. So there were specific</p> <p>22 situations where investor funds for a specific</p> <p>23 offering were used to fund the expenses of another</p> <p>24 offering?</p> <p>25 THE WITNESS: I said the proceeds from a</p>
<p style="text-align: right;">Page 259</p> <p>1 THE WITNESS: Any shortfall that we</p> <p>2 might've had we had a number of different avenues</p> <p>3 to address that. Some of those did not involve</p> <p>4 Douglas Hulme, and it was none of his business.</p> <p>5 Remember, he's a third-party promotional person.</p> <p>6 And we -- you know, we allowed him in our -- in</p> <p>7 our building, so to speak. And, you know, he's</p> <p>8 not privy to all of our work, all of our</p> <p>9 companies, all of our banking relationships, all</p> <p>10 of our profits and proceeds.</p> <p>11 MS. LAMA: Okay.</p> <p>12 THE WITNESS: So do you understand what</p> <p>13 I mean, though? So if there might've been a</p> <p>14 discussion about this, he's not in a position --</p> <p>15 he's not a partner. He's not a business partner.</p> <p>16 And if he didn't care for our business structure</p> <p>17 or plan or the people, just say, look, I don't</p> <p>18 want to do business with you anymore. Just say</p> <p>19 it.</p> <p>20 MS. LAMA: Okay.</p> <p>21 To your understanding, did you ever have</p> <p>22 a concern or did someone ever raise a concern to</p> <p>23 you that funds from a later offering were used to</p> <p>24 pay for construction in a prior offering?</p> <p>25 THE WITNESS: Funds from a --</p>	<p style="text-align: right;">Page 261</p> <p>1 project that might be going forward and that we</p> <p>2 were entitled to could be used for whatever</p> <p>3 purpose we want as long as it is consistent with</p> <p>4 the offering and the business plan that we're</p> <p>5 dealing with. That's fundamental business, isn't</p> <p>6 it?</p> <p>7 BY MS. FUCHS-SINDLER:</p> <p>8 Q I'm just a little confused. When you</p> <p>9 said proceeds and Michelle is asking you about</p> <p>10 investor funds, were you seeing a difference?</p> <p>11 A Well, of course. If I have investor</p> <p>12 funds, the vast majority of those investor funds</p> <p>13 are supposed to be used to build a project or a</p> <p>14 facility. But built into the offering and the</p> <p>15 business plan are areas of income that are legally</p> <p>16 entitled to the developer, the general partner --</p> <p>17 I guess it's the wrong term, but to the person or</p> <p>18 entity that's providing and doing the project.</p> <p>19 Q Are you talking about the construction</p> <p>20 supervision fees?</p> <p>21 A That's one of the things.</p> <p>22 I mean, I'm sorry I'm getting a little</p> <p>23 high pitched here, but how can it be wrong to take</p> <p>24 the proceeds that you're legally allowed to take</p> <p>25 and use them for what you choose, whether it's --</p>

<p style="text-align: right;">Page 262</p> <p>1 I mean, I've never bought my wife a Maserati, but 2 if I wanted to and those incomes were to me -- I 3 mean, that's a bad example. But you get my -- I 4 mean, we have used the income from the ski area to 5 pay bills. We've used the income from the sale of 6 real estate to pay bills. We use the proceeds 7 from, perhaps, an EB-5 project that are legally 8 allowed to us for any number of reasons. 9 Am I wrong in thinking that way? 10 Q I guess I'm just trying to understand, 11 because I think we're talking about proceeds and 12 investor money and -- 13 A I'm sorry. 14 MR. GORDON: Maybe -- can I help? 15 MS. FUCHS-SINDLER: Yeah. 16 MR. GORDON: Maybe you can tell him what 17 you mean by the word "proceeds." Because I think 18 that there's -- Ms. Lama is using the phrase 19 "investor funds," and you're using the word 20 "proceeds." And, perhaps, you could explain what 21 you mean. 22 THE WITNESS: I'm not talking about 23 investor funds. I'm talking about a project has a 24 mission and expenses. And there are certain 25 areas that the entity that creates the project,</p>	<p style="text-align: right;">Page 264</p> <p>1 THE WITNESS: I'm pausing only because 2 I don't think it was at all. I don't think it 3 was. 4 MS. FUCHS-SINDLER: Let's go off the 5 record for a second. 6 (A brief recess was taken at 6:01 p.m.) 7 EVENING SESSION 8 MS. FUCHS-SINDLER: We're back on the 9 record. 10 There were no substantive conversations. 11 We just discussed your flight -- I guess at the 12 beginning we had talked about 7:30, but now I 13 understand it's a different time. We won't be 14 able to finish today. We'll have to adjourn, but 15 not end the testimony. But your attorney wanted 16 an opportunity to ask a few questions. 17 MR. GORDON: Bill, just I want to go 18 back to some questioning that happened earlier in 19 the day. You were asked about funds that had been 20 at bank accounts in Vermont that were transferred 21 to Raymond James in 2008, and I think they were 22 characterized as an investor funds through the 23 questions. Do you recall that? 24 THE WITNESS: I do. 25 MR. GORDON: Okay. Do you know whether</p>
<p style="text-align: right;">Page 263</p> <p>1 they're entitled to what they're legally entitled 2 to. 3 The sale of land, what do I do with the 4 proceeds of the sale of land for a project? Well, 5 if I want to pay a bill from yesterday, I can do 6 that. It's my right. 7 MS. LAMA: What's your understanding as 8 to how that was tracked, that X-portion went to 9 the resort owner or the developer and those 10 portions were allotted and used in whatever manner 11 they were used in? How was that tracked? 12 THE WITNESS: How was it tracked? Well, 13 every project has its budget. Every project has 14 its timeline. And every month, we would develop 15 the invoices of the project, pay the bills. 16 And we tracked things every month for every 17 project. 18 Now, I think at the most, we had -- we 19 had two projects going at one time. I think Golf 20 and Mountain Suites and Lodge and Townhouse was 21 the only time we had two projects in actual 22 construction at the same time. 23 MS. LAMA: I guess just one last 24 question on this meeting. Was the issue of margin 25 loans discussed at this meeting?</p>	<p style="text-align: right;">Page 265</p> <p>1 any of these funds were, in fact, funds owed by 2 the partnerships to Jay Peak, Inc.? 3 THE WITNESS: They very possibly 4 could've been. 5 MR. GORDON: And do you know whether -- 6 whether there were funds in these accounts that 7 didn't originate with the investors in the limited 8 partnerships? 9 THE WITNESS: At that particular stage 10 in our early projects, yes, that's very likely 11 possible. Funds could have come from the 12 operation of the ski area. It could've come from 13 Ary himself. It could've come from a number of 14 sources. 15 MR. GORDON: I don't have any other 16 questions. 17 MS. LAMA: In a follow-up to that 18 question, would funds from other sources be 19 deposited into the escrow accounts at People's 20 Bank? 21 THE WITNESS: They might. They might 22 be. If -- I don't doubt that during the course of 23 the history of the Phase I project that might've 24 been the case because we went over -- we had 25 thirty-five investors, Michelle, and we had</p>

<p style="text-align: right;">Page 266</p> <p>1 expenses above and beyond the seventeen and a half 2 million. And it is totally possible that funds 3 went into that account from other sources to pay 4 for, perhaps, an overage. 5 MS. LAMA: And you're referring again to 6 the escrow accounts? 7 THE WITNESS: No. I'm just saying -- 8 you asked a question, and I'm telling you it is 9 entirely possible that that could be the case. 10 And records will show that, though. I mean, that 11 project has long since completed. All of the 12 detail is clear. 13 MS. LAMA: Okay. So just to be clear, 14 is it your testimony that funds coming from escrow 15 accounts at People's Bank -- 16 THE WITNESS: Funds coming from the 17 escrow accounts at People's Bank? 18 MS. LAMA: At People's Bank -- let me 19 rephrase it. 20 Is it your testimony that there could be 21 funds, other than investor funds deposited into 22 the escrow accounts at People's Bank? 23 THE WITNESS: The escrow accounts? That 24 wasn't what Dave had asked me. The Phase I 25 account at Raymond James or at People's, it's</p>	<p style="text-align: right;">Page 268</p> <p>1 BY MS. FUCHS-SINDLER: 2 Q So you're saying it might've. So you're 3 belief is just based on what things might have 4 happened; is that fair? 5 A Well, you're asking me a question, is -- 6 were all of the funds in the escrow account only 7 from the Phase I investors, and I'm saying to you 8 that there might've been funds from another source 9 go into those accounts. I don't know that, but I 10 don't know that it didn't. 11 The line of questioning, I'm trying to 12 not say, gee, no funds from any other source ever 13 went into that. I don't know that that's the 14 case. I know that we had, for instance, in 15 that -- we had to pay bills for the Phase I 16 project that were in excess of seventeen and a 17 half million. And those funds may have been paid 18 out of Jay Peak, may have been paid from Ary 19 Quiros's personal funds. It might've been paid -- 20 you know, those are examples of where they 21 could've come from. 22 MS. LAMA: But my question is different. 23 My question was: The escrow accounts at People's 24 Bank, whether for Phase I, Phase II or any of the 25 other phases, was any money deposited into the</p>
<p style="text-align: right;">Page 267</p> <p>1 entirely possible that funds were deposited into 2 those accounts to -- to pay for some of the 3 expenses for Phase I -- 4 MS. LAMA: Okay. 5 THE WITNESS: -- but I can provide 6 detail that would demonstrate what I'm referring 7 to there. 8 MS. LAMA: Okay. Then let me clarify my 9 question. As far as the escrow accounts at 10 People's Bank, were those escrow accounts only 11 used to deposit investor money? 12 THE WITNESS: Were the escrow accounts 13 at People's Bank used only for the depositing of 14 investor funds? I believe that there very well 15 could've been additional funds put into those 16 accounts. It's possible that it was more than 17 just investor funds. 18 MS. LAMA: And what is that based on? 19 THE WITNESS: Well, based on the fact 20 that we had bills in excess of seventeen and a 21 half million dollars for that project and the 22 funds paying for the project came from somewhere. 23 And they might've come from our ski area proceeds. 24 They might've come from work we did. Might've 25 come from our partner, Ary Quiros.</p>	<p style="text-align: right;">Page 269</p> <p>1 escrow accounts, other than investor funds, funds 2 raised from investors? 3 THE WITNESS: I don't know if there were 4 no other funds invested in -- or deposited there. 5 It is very easy to determine that. 6 Did I answer your question? 7 MS. LAMA: If you're done answering. 8 THE WITNESS: Well, I'm trying to -- I'm 9 trying to determine whether or not you -- if I'm 10 not explaining satisfactorily to you. 11 The investors in Phase I, many of them 12 went into the escrow account. But at the very 13 beginning of the Phase I project, when we took 14 control of the company in January of '08, there 15 were -- there were many, many, hundreds of 16 thousands, if not millions of dollars of 17 expenditures already -- already spent and created 18 and worked on. 19 Now, I know that some of that -- some of 20 those expenses were paid by Jay Peak. And the 21 majority, the vast majority of the investor funds 22 went into the escrow account. But there's a very 23 clear paper trail. I mean, it's not -- you know, 24 you're asking me here, and it's been a very good 25 meeting, but, what, eight hours later, I'm -- I</p>

Page 270

1 can only tell that you we have perfect records of
 2 every investor whose funds did go into the -- that
 3 particular fund, when they went, where they went,
 4 and what they did. And that's what I'm trying to
 5 just flesh out for you. Okay?

6 MS. LAMA: Okay.

7 MR. GORDON: Maybe I'm just going to ask
 8 him one other question, or is that -- is that
 9 okay?

10 So seventeen and a half million dollars
 11 for Phase I is raised from investors and it goes
 12 into an escrow account. Is some portion of that,
 13 once after invested, no longer investor funds to
 14 your mind?

15 THE WITNESS: Can you repeat that?

16 MR. GORDON: Sure.

17 So under the offering materials,
 18 investors put up seventeen and a half million
 19 dollars. Does some portion of that belong upon
 20 investment to others?

21 THE WITNESS: Yes.

22 MR. GORDON: Can you give some
 23 examples.

24 THE WITNESS: Well, there's land sales.
 25 There's the construction supervision cost. There

Page 271

1 may be other elements within that that are
 2 appropriately due the developer.

3 MR. GORDON: So in addition then to
 4 funds that Jay Peak, Inc. or Q Resorts or others
 5 may be placing into accounts of a partnership,
 6 would it be fair to say that there are some
 7 portion of funds in those accounts that right of
 8 off the bat belong to others?

9 THE WITNESS: Absolutely.

10 MR. GORDON: That's it.

11 THE WITNESS: Absolutely.

12 MS. FUCHS-SINDLER: Okay. So,
 13 obviously, we couldn't finish today, but it's
 14 already 6:12. So we're going to adjourn for the
 15 day.

16 Is there anything you wanted to add or
 17 clarify before we go off the record?

18 THE WITNESS: No, other than that when
 19 you're doing a project and you have proceeds that
 20 are legally -- that you're entitled to, I just
 21 want to re-enforce the fact that there's nothing
 22 wrong with using those funds in whatever manner
 23 you are legally allowed to. And by legally, I
 24 mean, you know, you're not going to go out and by
 25 drugs.

Page 272

1 I'm saying, you know, if you make the
 2 appropriate legal approved profit on something,
 3 whether it a land sale or other agreed-upon
 4 elements of income, you're entitled to do with
 5 those elements of income what you want. And it
 6 would be the same. I mean, that to me is a
 7 fundamental of American business. I mean, I hope
 8 that's --

9 MS. FUCHS-SINDLER: Was there anything
 10 else that you wanted to add at all?

11 THE WITNESS: No. No.

12 MS. FUCHS-SINDLER: Okay. So thank you.
 13 So we're off the record at 6:15.
 14 (Whereupon, at 6:15 p.m., the
 15 examination was concluded.)
 16 * * * * *

Page 273

PROOFREADER'S CERTIFICATE

1
 2
 3 In the Matter of: JAY PEAK, INC.
 4 Witness: William Stenger
 5 File Number: FL-03815-A
 6 Date: Wednesday, May 21, 2014
 7 Location: Miami, Florida 33131
 8

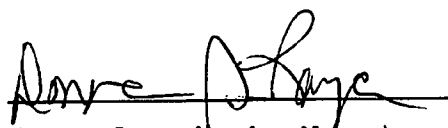
9 This is to certify that I, Donna S. Raya,
 10 (the undersigned), do hereby swear and affirm that
 11 the attached proceedings before the U.S. Securities
 12 and Exchange Commission were held according to the
 13 record and that this is the original, complete, true
 14 and accurate transcript that has been compared to
 15 the reporting or recording accomplished at the
 16 hearing.
 17
 18 _____
 19 (Proofreader's Name) (Date)
 20
 21
 22
 23
 24
 25

PROOFREADER'S CERTIFICATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In the Matter of: JAY PEAK, INC.
Witness: William Stenger
File Number: FL-03815-A
Date: Wednesday, May 21, 2014
Location: Miami, Florida 33131

This is to certify that I, Donna S. Raya,
(the undersigned), do hereby swear and affirm that
the attached proceedings before the U.S. Securities
and Exchange Commission were held according to the
record and that this is the original, complete, true
and accurate transcript that has been compared to
the reporting or recording accomplished at the
hearing.


(Proofreader's Name)

6/3/14
(Date)

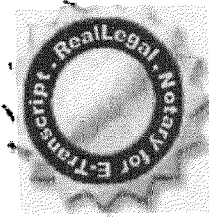
1 UNITED STATES SECURITIES AND EXCHANGE

2 REPORTER'S CERTIFICATE

3
4 I, BRIGITTE ROTHSTEIN, Court Reporter, hereby
5 certify that the foregoing transcript of 272 pages
6 (May 21st, 2014) is a complete, true and accurate
7 transcript of the testimony indicated held on
8 May 21st, 2014 at 10:30 a.m. in the matter of:
9 JAY PEAK, INC.

10
11 I further certify that this proceeding was
12 recorded by me, and that the foregoing transcript
13 was prepared under my direction.

14
15 Date: May 29th, 2014
16 Official Reporter: Brigitte Rothstein
17 Diversified Reporting Services, Inc.



26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

Brigitte Rothstein
BRIGITTE ROTHSTEIN, Court Reporter
Notary Public - State of Florida
Commission No.: EE 175314
Expires: March 17th, 2016
Transmittal Number: M000222